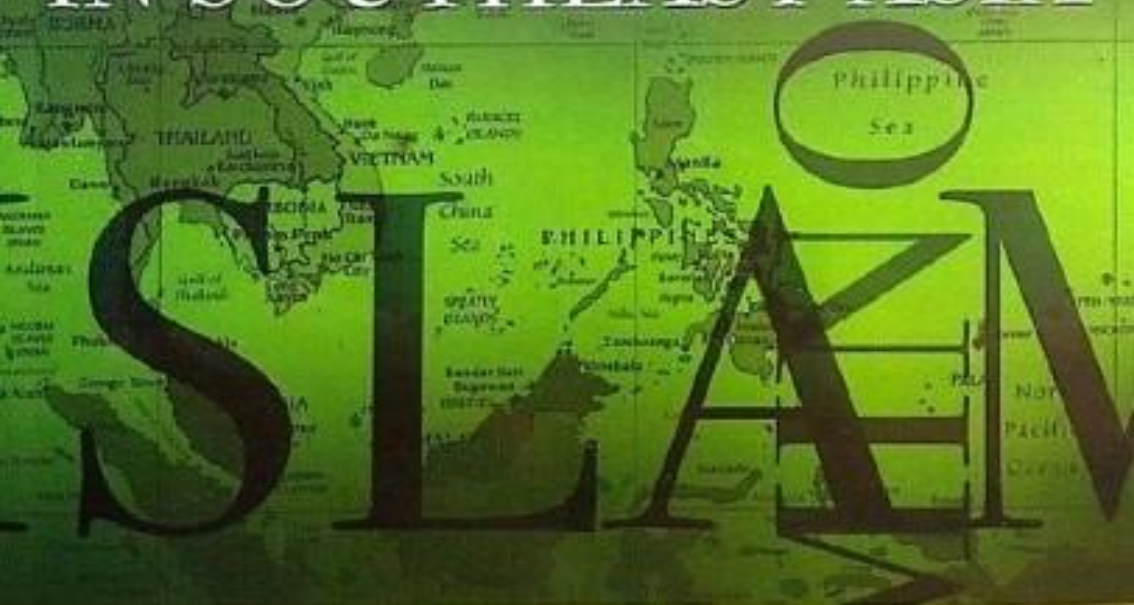


ISLAM, MINORITIES AND IDENTITY IN SOUTHEAST ASIA



AHMAD SUAEDY



STATE ISLAMIC UNIVERSITY
SUNAN KALIJAGA
Y O G Y A K A R T A

ISLAM, MINORITIES AND IDENTITY IN SOUTHEAST ASIA



AHMAD SUAEDY

ISLAM, MINORITIES AND IDENTITY IN SOUTHEAST ASIA

Foreword by

Retno Lestari Priansari Marsudi (*Minister of Foreign Affairs
of Republic of Indonesia*)

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THIS WORK DEDICATED TO:

My Wife:
Uum

My Children:
Dian, Robith, Dienal

ACRONYMS

General

UNFPA	United Nations Population Fund
AMP	Association of Muslim Professionals
OIC	Organisation of Islamic Cooperation
UNHRC	United Nations Human Rights Council
UPR	Universal Periodic Review
ICRP	the International Covenant on Civil and Political Rights

Indonesia

AKKBB	Aliansi Kebangsaan Untuk Kebebasan Beragama dan Berkeyakinan, National Alliance for Freedom of Religion and Belief
Bakorpakem	Badan Koordinasi Pengawasan Aliran Kepercayaan Masyarakat, Coordinating Body for Monitoring Mystical Beliefs in Society
BAMUS	The Sunda Consultative Body
DPR	Dewan Perwakilan Rakyat, People's Representative Council
FKUB	Forum Kerukunan Umat Beragama, Inter-Religious Harmony Forum
FUUI	Forum Ulama Ummat Islam, Indonesia Forum of Ulama and the Muslim Community
FPI	Front Pembela Islam, Defenders' Front of Islam
GUI	Gerakan Umat Islam, Muslim Islamic Community Movement
HTI	Hizbut Tahrir Indonesia
IKAWANGI	The Banyuwangi Family Association
JIL	Jaringan Islam Liberal, the Liberal Islamic Network
KIPEM	Kartu Identitas Penduduk Muslim, Muslim Resident Identity Card
KISDI	Komite Indonesia untuk Solidaritas Dunia Islam, Indonesian Committee for the Solidarity of the Islamic World

KLI	Komando Laskar Islam, Islamic Force Command
KOMNAS	Komisi Nasional Hak Asasi Manusia
HAM	National Commission on Human Rights
KTP	Kartu Tanda Penduduk, identity card
KWI	Konferensi Waligereja Indonesia, Indonesian Bishops' Conference
KUB	Kerukunan Umat Beragama Inter-religious Harmony
LPPI	Lembaga Penelitian dan Pengkajian Islam, Institute for Islamic Research and Studies
MPU	Majelis Permusyawaratan Ulama, Ulama Deliberative Assembly
MTA	Majelis Tafsir Al-Qurani, Quran Interpretation Council
MUI	Majelis Ulama Indonesia, Indonesian Council of Ulama
PDI-P	Partai Demokrasi Indonesia - Perjuangan, Indonesian Democratic Party - Struggle
PGI	Persekutuan Gereja-gereja Indonesia, the Indonesian Communion of Churches
PHMB	Persaudaraan Hindu-Muslim Bali, Balinese Hindu-Muslim Brotherhood
PKI	Partai Komunis Indonesia, Indonesian Communist Party
PKS	Partai Keadilan Sejahtera or Prosperous Justice Party
UIN	Universitas Islam Negeri, Islamic State University
UNSFIR	The United Nations for Support Facility for Indonesian Recovery
WATIMPRES	Presidential Advisory Council of the Republic of Indonesia
YKNCA	Yayasan Kanker dan Narkoba Cahaya Alam, Natural Light Foundation for Cancer and Drug Abuse

Malaysia

ABIM	Malaysian Islamic Youth Movement (Angkatan Belia Islam Malaysia)
AEC	Alternative Economic Policy
BA	Barisan Alternatif, Alternative Front

BTN	Biro Tata Negara, National Civics Bureau
BN	Barisan Nasional, National Front
DAP	Democratic Action Party
IAIS	International Institute for Advanced Islamic Studies
ISA	Internal Security Act
JIM	Jemaah Islam Malaysia
MCA	the Malayan Chinese Association
MIC	Malaysian Indian Congress
NEP	New Economic Policy
NDP	New Development Policy
NVP	New Vision Policy
PAS	Pan-Malaysian Islamic Party
PERKIM	Malaysian Islamic Welfare Organization (Pertubuhan Kabijakan Islam Se-Malaysia)
PGRM	Malaysian People's Movement Party (Parti Gerakan Rakyat Malaysia) = Gerakan
PKR	People's Justice Party (Partai Keadilan Rakyat)
PR	People's Alliance (Pakatan Rakyat)
PUM	Association of Malaysian Ulama (Persatuan Ulama Malaysia)
SIS	Sisters in Silam
UMNO	United Malays National Organization

Myanmar

BN	National Front
DHRP	Democracy and Human Rights Party
DNPDP	National Democratic Party for Development
DNPHR	National Democratic Party for Human Rights
NLD	National League for Democracy
RRN	Rohingya Resource Network
SLORC	State Law and Order Restoration Council
SPDC	State Peace and Development Council
UNPD	Union National Democratic Party
USDP	Union Solidarity and Development Party

The Philippines

ARMM	Autonomous Region of Muslim Moro
BIAF	Bangsamoro Islamic Armed Forces a.k.a. Mujahedeen Alliance for Bangsamoro
BJE	Bangsamoro Juridical Entity
BUC	Bishops-Ulama Conference
FPA	Final Peace Agreement
GRP	Government of the Republic of the Philippines
MILF	Moro Islamic Liberation Front
MIM	Muslim Independence Movement
MNLF	Moro National Liberation Front
NLSA	National Land Settlement Administration
NRRA	National Resettlement and Rehabilitation Administration
MOA-AD	Memorandum of Agreement on Ancestral Domain
NUCP	National Ulama Council of the Philippines
OPAPP	<i>Office of the Presidential Adviser on the Peace Process</i>
Tripoli PA	Tripoli Peace Agreement
PCID	Philippine Council for Islam and Democracy
SDA	Silsilah Dialogue Movement
SPCPD	Southern Philippines Council for Peace and Development
SPM	Salam Peace Movement
SZOPAD	Special Zone of Peace and Development

Singapore

AMLA	Administration Muslim Law Act
ISA	Internal Security Act
MUIS	Majlis Ugama Islam Singapore, the Singaporean Islamic Council

Thailand

DSCC	Deep South Coordination Center
DSW	Deep South Watch
ISA	Internal Security Act
MAC	Muslim Attorney Center
MLC	Muslim Lawyers Club
NCCC	National Counter Corruption Commission
NRC	National Reconciliation Commission
PUSTA	Center for Conservation for Local Culture and Environment in Southern Border Provinces of Thailand
TRT	<i>Thai Rak Thai</i> (Thai People Love Thailand)
YAKIST	Foundation for South Thai Islamic Culture
YMAT	Young Muslim Association of Thailand

AUTHOR'S PREFACE

The papers collected in this book represent a series of research undertaken between 2009 and 2015 in some countries in Southeast Asia. These were published in several journals as well as book chapters and, at least according to me, the contents of the papers are still very relevant and provide context to be developed further into the future. From my own experience in Islamic Studies in Indonesia, there is limited knowledge in Islamic Studies of Southeast Asia that emphasizes the existence of Muslim minorities and the dynamics of Muslim civil society.

Muslim minorities studies are mostly done in developed countries such as in Europe, the United States, Australia and Canada. Most of the Muslim minorities in these countries are immigrants from Middle Eastern or South Asian countries such as Pakistan, and also from India and Africa. There are not too many of them from Southeast Asia, while the Muslim minorities in Southeast Asia who are the focus of the study of this book, are native. Due to social and historical factors of local nationalism the process is still continuing and dynamic and often involves conflict, then they are partially excluded and discriminated against and then react to the central government. The limitations of new concepts from within Islam itself also often entrap them in a dead end.

Minorities in developed countries are generally more concerned with issues of dimensions of worship or rituals of Islam, such as places of worship, halal food, Islamic holiday celebrations, zakat, and graves for Muslims. Opportunities and work competition, social class and political opportunities seem to me to be rarely raised. The observations of John L. Esposito and Francois Burgat (2003), for example, about the Muslim public spheres in Europe reveal this.

It is evident in the papers in this book, and indeed found in the research, that the deepest aspirations of the Islamic minorities in Southeast Asia are to do with social and political problems. The equality of citizens, access to education and politics, the granting of political autonomy, governance of territory, sharing of proceeds, profits and taxes, and respect for tradition as identity rather than ritual are emerging issues. If local Muslim nationalism grows from them, it is not really based on Islamic ideology but on the historical claims of the territorial authority, the history of the sultanate or kingdom reflecting the struggle of cultural and religious identity rather than limited political aspirations.

In Europe itself in the era of the growth of nationalism in the 17th century, respect for local territories and traditional identity was high. The European nationalism does not in itself erase its local kingdoms and traditions. In the context of Southeast Asia, the solution is, of course, not always the establishment of a separate state or a secession but can take other forms, such as autonomy and self-governance. We still hope to see the dynamics and development of cultural negotiations and ideals within the countries of Southeast Asia and the position of Muslim minorities will be more equal and fair. This is where the importance of further study on this topic is evident.

Although the title of this book references 'Southeast Asia' it is actually only concerned with some countries in Southeast Asia and with certain topics. The spotlight is especially given to Muslim communities especially in places where Islam is a minority: Myanmar, Singapore, Southern Thailand and the Southern Philippines. Papers on Indonesia specifically highlight the rights of non-Muslim minorities and minorities within a religion like Ahmadiyah, Syiah and local believers who find themselves in conflict with majority Muslim thinking and practice, while papers about Malaysia focus on the relative radical changes in the elections in 2008. This is because

the dynamics in Indonesia during the research period brought about many emerging religious conflict situations that have implications for minorities. In Malaysia, this relatively drastic change in government has shifted the main discourse of racial mainstream policy toward racial demands based on need.

I would like to thank all those who have contributed to the completion and the publication of this book, but cannot mention everyone by name. In particular, my thanks go to Dr. Sandra Hamid, a representative of the Asia Foundation, who was willing to help finance the publication of this book. Thanks you to Rebecca Lunnnon who contributed to the draft of this book and also to Libasut Taqwa, who was involved in the technical finishing of this book.

Finally, happy reading and may you find it useful.

Rumbut Bawah, Depok, November 10th 2017

Ahmad Suaedy

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CHAPTER I

MANAGING IDENTITY: MUSLIM MINORITIES IN ASIA (SOUTH THAILAND, THE SOUTHERN PHILIPPINES, AND PENANG, MALAYSIA)

Introduction

Discourse on minorities, including Muslim minorities, has received greater attention in our increasingly globalized world and since the fall of communism in the 1990s (Poulton & Taji-Farouki, 1997; Kymlicka, 2008). However, within Islamic intellectual discourse there has been little exploration of Muslim minorities within non-Muslim majority or secular states, particularly in Southeast Asia. According to Abou El Fadl (2006), the discourse on minorities within *fiqh* (Islamic jurisprudence) was, up to the end of the imperial Ottoman Empire in Turkey, limited largely to a debate over whether or not a Muslim should be allowed to live in a non-Muslim majority region, as it was feared that they would face difficulties in practicing their religion and might have been discriminated against. Today, discourse in *fiqh* or *sharia* (Islamic law) concerning Muslim minorities is more focused on migrant minorities in developed countries. In addition, *fiqh al-Aqalliyat* (*fiqh* concerning minorities) mainly discusses matters concerning ritual religious aspects such as halal food, clothing, prayers, Friday gatherings, burial of the deceased and so on within the context of a non-Muslim majority state.¹ Socio-economic and political matters are rarely discussed.

Yet observation of the social and political dynamics of the Muslim minorities in South Thailand, the Southern Philippines and the state of Penang in Malaysia reveals that aspirations and demands concerning economic, socio-cultural and political rights are far greater than those concerning the ritual aspects of faith.² This paper examines the dynamics both within the Muslim communities themselves and in their relationships with the national majority and state.

First, it is necessary to discuss the many differences in the character of each of these minorities and the unique political situations they find themselves in. For example, there are very different central government policies towards Muslim minority movements in Mindanao in the Southern Philippines and in Patani in South Thailand. In the Philippines, the central government has held formal negotiations and peace talks with the separatist movements during periods of ceasefire. Since the cancellation in October 2008 of the planned MOA-AD (Memorandum of Agreement on Ancestral Domain) between the MILF (Moro Islamic Liberation Front) and the GRP (Government of the Republic of the Philippines), the situation has become increasingly fragile in Mindanao, though the parties continue to hold peace talks. The Thai government's approach in responding to the separatist movement in Patani is very different (ICG, 2010). The Thai government almost never officially recognizes or pursues open dialog with the separatists, and as a result there are rarely any formal discussions or negotiations between them, which makes it difficult for the Muslim minority to act openly.

The Muslim minority in Penang has a completely different character to the two aforementioned. There is no separatist movement in Penang, but economic inequalities between the Malay Muslim minority and the ethnic Chinese majority has meant a continued focus by Islamic organizations and movements on the issue of the *Bumiputera* (Malays). This has been the case most especially since the 2008 general election in which the opposition PR (Pakatan Rakyat, People's Alliance) coalition, specifically the DAP (Democratic Action Party), which campaigned to abolish the NEP (New Economic Policy), won election in the state of Penang (Suaedy, 2010).

Findings from Fieldwork

Mindanao

Peace negotiations between the GRP and the Maugindanao Muslims who call themselves the *Bangsamoro* have been ongoing since the 1970s. In the early 1970s the *Bangsamoro* were represented by the MNLF (Moro National Liberation Front), under the leadership of Nur Misuari. The MNLF split into two when the deputy head, Hashim Salamat, established his own organization named the MILF (Moro Islamic Liberation Front) and started negotiating with the GRP. In 1986 the MNLF agreed, although not unanimously, with the GRP to establish the ARMM (Autonomous Region of Muslim Moro), while the MILF continued to demand independence. However, by 2001 the MILF agreed to withdraw its demands and proposed a new formula known as the MOA-AD. The draft MOA-AD was initially planned to be signed in 2008. However, the Supreme Court ruled that the draft violated the Constitution and the signing was thus cancelled. Since the cancellation, there has been no official peace agreement, bar a temporary agreement to continue peace talks.

The MOA-AD had been a long time in the making. After the Tripoli Peace Agreement in 1976 between the MNLF and the GRP, there was the MNLF split. In addition, President Ferdinand Marcos introduced a policy that seemed to violate the agreement, by dividing Mindanao into two regions, region XI and region XII. The MNLF believed that the policy violated the agreement over territory as laid out in the peace agreement. Both the MNLF under Nur Misuari and the MILF (at the time not yet formally declared as such) under Hashim Salamat boycotted a 1978 plebiscite. It seemed that implementation of the peace agreement had led to the emergence of new problems for the *Bangsamoro*.

Nur Misuari, as MNLF leader, was trapped between the MILF, the Marcos government and the *datus* (traditional elders), and this made him revert back to his origins, namely the Tausug ethnic group that had remained relatively loyal in their support of him (Jairi, 2007).

It became increasingly clear that the *Bangsamoro* had started to split between the ethnic Tausug who formed the majority in the Sulu Archipelago and mostly supported the MNLF, and the Maguindanao who formed the majority in Mindanao Island/Peninsula, and largely supported the MILF. Hashim Salamat was an ethnic Maguindanao based in Cotabato, the capital city of Maguindanao.

President Corazon Aquino's announcement that she would visit Jolo, the capital city of Sulu, revived the hopes of Nur Misuari and the MNLF of realizing the Tripoli Peace Agreement of 1976, yet at the same time it clearly neglected the aspirations of the MILF. Similarly, when President Fidel Ramos replaced Aquino as President and offered hopes once again for the MNLF and the Final Peace Agreement of 1996, this increased opposition and widened support for the MILF. By the time of Estrada's election as president in 1998, the MNLF was facing continual pressure within the ARMM, with MNLF people being replaced by those trusted by the government. There was also a government policy of all-out war against the MILF in 2001.

Meanwhile, the sidelining of Nur Misuari from the ARMM led to criticism of his leadership of the MNLF. When Misuari was arrested and later imprisoned for involvement in riots in 2002, a new group emerged declaring itself to be the new MNLF based in Cotabato. It was led by the two-time mayor of Cotabato, Sema Muslim Sema, who was from the Maguindanao ethnic group. Sema claimed to have more support amongst MNLF supporters and also claimed to represent other communities and to be holding talks with other parties such as the MILF (Muslim Sema, 2010). Leadership rivalry had also emerged within the MILF, from the Tausug ethnic group. Syariff Jullabi (2010) claimed to have control over a large part of the BIAF (Bangsamoro Islamic Armed Forces) which was also known as the Mujahedeen Alliance for Bangsamoro. He even said cynically that the MILF under Haji Murad Ibrahim, the MILF High Commandant after Hashim Salamat's death, was just a continuation of the Maguindanao Iranao Liberation Front (a play on the name

‘MILF’). Iranao is the name of a small ethnic group in Mindanao and thus Jullabi’s comment meant to say that Haji Murad’s leadership was only for the ethnic Maguindanao, and did not incorporate the Tausug or Moro people in their entirety.

Several peace-related efforts were also made by non-partisan civil society activists including religious leaders such as *ulama* and bishops, and by those from non-governmental organization (NGO) circles. Recently these have appeared to gather in strength and influence. Rood (2005; Buck, 2007: 99–123) notes that although the role of civil society has clearly increased, there has been an imbalance between movements led by Catholics and those by Muslims, with the Muslims tending to be underrepresented. However, the movement known as the BUC (Bishops-Ulama Conference) for instance, holds routine meetings to discuss a variety of peace efforts amongst Muslim, Catholic and Protestant leaders in Mindanao, both those who are positioned in Mindanao itself and those who are in Manila. The BUC holds annual meetings to share experiences and evaluations, and to increase efforts for future steps (BUC, 2009; Mecardo, 2010).

There is also the SDM (Silsilah Dialogue Movement) in Zamboanga city, which was established by Fr. Sebastiano D’Ambra, an Italian bishop. SDM runs various community empowerment and social activities from a peace perspective and that incorporate religious ideas concerning humanity and compassion. The word *Silsilah* was inspired by the Arabic and Sufi worlds, after Fr. D’Ambra studied Sufism in Italy. SDM intentionally recruits a mixture of Muslims and Catholics to work in its office as facilitators and activists in empowering the wider community. It has established a *madrassa* for Muslim children who cannot afford the fees to study at private or public schools. Fr. D’Ambra has said that he believes peace will be created through empowerment of grassroots society and cultural and community dialog (Fr D’Ambra, 2010). Another priest, Fr. Alberth Salijo, has made similar efforts by establishing a center for peace and conflict resolution studies in Mindanao under

the Church and Ateneo de Davao University in Davao city (Saliyo, 2010).

In addition, the SPM (Salam Peace Movement) in Zamboanga city has worked for about four years with SDM and been involved in empowering society at the grassroots levels to work for peace within the Muslim community. Starting by building groups within mosques and *mushalla* (places of worship for small communities), the SPM has developed networks in several villages in Zamboanga. Its director, Dr. Alih S Aiyub, is active in building networks with NGO civil society groups and religious leaders working towards peace (Aiyub, 2010). Islamic religious leaders have also made similar efforts. From 24 to 27 January 2010 the NUCP (National Ulama Council of the Philippines) held a conference in Davao for the first time on a national scale. It was attended by at least 500 *ulama*, consisting of about 300 male *ulama* and 200 female *alimah*, 70 percent of whom came from Mindanao.

Amina Rasul, director and founder of the PCID (Philippine Council for Islam and Democracy), which was behind the formation of the NUCP, said that although it was the first time the NUCP held a national meeting after legally obtaining approval from the GRP, the process had been started at least four years previously with a project to gradually empower *ulama* in all areas of the Philippines starting at the lowest levels, and to then form a politically neutral and nonpartisan organization that aimed at empowering civil society, especially Muslim society and involving all elements and factions within Philippine Muslim society (Rasul, 2010). Amongst other things, the conference discussed the strategy of involving *ulama* and society in peace efforts, conflict resolution and the implementation of a peaceful election in May 2010. The elected NUCP president, Dr. Hamid Barra, spoke of prioritizing consolidation, which meant building collective understanding and determining the roles that the community of *ulama* would play in creating peace by strengthening communities economically (Barra, 2010).

Radio Suara Mindanao, a public radio station based in Cotabato city is also actively promoting community participation by discussing a variety of problems and developments in Mindanao. According to program coordinator Abdurrahim B Sinarimbo or Raheem (Raheem, 2010), routine programs run for about four hours every day, and because the discussions relate to community participation and involve many parties, the station almost deserves to be known as a movement. Raheem has said that the station always takes a neutral stance towards issues, while contributors and community members tend to present aspirations in line with those held by the *Bangsamoro* people. The station often gives local and central government officials a place to explain issues to the community in Mindanao and receive input and criticism from listeners.

Outside these efforts, the MNLF-MILF relationship continues to be politically strained and competitive as each group attempts to win over the community's sympathy. Although representatives from both parties hold regular informal meetings to build mutual understanding and to try to prevent physical clashes, occasional rioting continues to break out.

In negotiating with the central government, although the political groups represented by the MNLF and MILF played a large role, social and civil society movements which took relatively impartial positions have played increasingly important roles, particularly after the Supreme Court's annulment of the MOA-AD. In addition to voicing the demands of the Muslim minority in Mindanao, civil society and social movements have also held internal negotiations with political groups and amongst themselves.

Patani

Conflicts between the Muslim minority in Patani, in South Thailand and the government of Thailand can be traced back to 1932, and negotiations have been held between the two parties since the 1940s. Following the second election after the revolution, the

central government of Thailand introduced an assimilation policy that banned the language and traditional dress which had been symbols of the Muslim communities in the South. The government also arrested some of those who opposed the new policy, including Haji Sulong, a prominent Muslim leader. Since then, some groups have followed the government policy and have become involved in national political parties and bureaucracy, while new movements demanding independence and negotiations have continued to emerge.

The period of 2003–2004 was full of unrest and uncertainty in South Thailand (McCargo, 2009: viii-1; NRC, 2006: 9-10; Sacha-Anand, 2009: 96-109.). The central government increased monitoring and tightened control over society in the South. Since then a new phenomenon has emerged, namely the growth of civil society organizations and NGOs addressing these issues.

On 12 March 2004, following an increase in violence under Prime Minister Thaksin Shinawatra's government in Pattani, Yala and Narathiwat, the three provinces in South Thailand that constituted the former Sultanate of Patani' (NRC, 2006: 9-10). lawyer Somchai Neelapaijit was kidnapped (and later murdered). Somchai had been working *pro bono* to defend victims of kidnappings or imprisonment, and those accused of terrorism in South Thailand. He also supervised junior lawyers from South Thailand who were studying in Bangkok. They became the founders of the Muslim Attorney Center (MAC), which worked *pro bono* to help political victims and their families with advocacy and legal matters. The death of Somchai Neelapaijit pushed the MAC to maintain a presence in each of the capital cities of the three provinces. The center's work included accompanying victims to court, political advocacy, direct advocacy, investigation, and providing legal education for the public in order to increase understanding of legal procedures and to provide contact persons for assistance. Today each MAC branch has between seven and ten full-time lawyers and 20 to 30 volunteers who provide free services. The center is committed to promoting human rights such as the

right to life, freedom from torture, freedom from fear, and freedom of expression (Arweapureh, 2009). MAC also publishes an annual report on the political situation in South Thailand and selected cases on the website www.macmuslim.com.

The women's movement currently plays perhaps the most important role in South Thailand's social movement. According to Soraiya Jamjuree (2010), lecturer at the Education Faculty of the Prince of Songkla University and also an activist, before the violence of 2003–2004 the division of work for women in South Thailand was well established, in that they worked, as was customary, in the home, in the rice paddies or in sewing. Some worked in offices. Today women activists seek to help school children, secure scholarships, find work for widows (although opportunities are limited and rather uncertain), and defend mainly poor victims in court, by working with lawyers prepared to work *pro bono* (Zaenab, 2009). To date, government compensation for victims and families affected by violence is very limited.

Zaenab, known more commonly as Yena, and Zubaidah are two such activists whose families are victims of the violence. Yena lost 48 family members, including her children, in the Tak Bae incident during the height of violence that occurred in 2004 (NRC, 2006).²² Initially, she worked as a tailor, and her husband as an *ojek* (motorcycle taxi) driver. Today Yena, a junior high school graduate, is coordinator of a network for female victims of violence for the three provinces. She serves the families of victims by finding lawyers, finding schools for orphans, helping victims make their way to government offices as needed, and accompanying them to court if family members have been accused of involvement in the separatist movement. There are six to ten other colleagues working similarly in each province on a daily basis. Yena and her colleagues receive support from NGO activists and lecturers or researchers at universities, such as activists Jamjuree and Alisah Hasamoah (2009), both of whom are lecturers in the Humanities and Social Sciences Faculty of Prince of Songkla University. All such activities, whether

by NGOs, grassroots movements or university groups, are entered into a comprehensive database compiled and analyzed by a research institute under the Faculty of Technology of The Prince of Songkla University, known as the DSCC (Deep South Coordination Center) (Kuning, 2009).

Malay language, Jawi script (Malay Arabic) and religious education are three important features of Malay-Muslim identity in the region. In South Thailand, a number of *pondok* (schools) have set aside funds specifically to employ teachers of Malay and to provide extra classes for students. Every semester, the Darus Sat *pondok* in Sae Buri, about 90 minutes' drive from Patani, allocates funds and time to teach Malay and religious education using the Jawi script. Many foundations, *pondok* and individuals concerned with the Malay language and Jawi script run independent radio broadcasts. Once such organization is YAKSIT (the Foundation for South Thai Islamic Culture), established by former police officer Tengku Arifin Bin Tengku Chik using money from his police pension. The foundation runs free courses in Malay for the community, especially for children, in the three provinces.

Former businessman and former director of the YMAT (Young Muslim Association of Thailand) Mansor Salleh is involved in a similar endeavor in Yala, where he has established a community radio network to help develop Malay. The station broadcasts five hours a day on various subjects. Salleh also helps increase political awareness within the community, especially amongst children.

Hj Ismail Ishad Benjamith Al-Fatani (Jomo, 1990-1991), a traditional *pondok da'i* (preacher) works with the Islamic College of the Prince of Songkla University through his institute, PUSTA (the Center for Conservation for Local Culture and Environment in Southern Border Provinces of Thailand), to hold exhibitions of traditional South Thai Malay art. Most exhibitions are held in villages, open fields, *pondok* and *madrassa*. PUSTA also promotes local Muslim leaders and *ulama* to help build awareness of local and Malay culture through seminars and other events.

The South Thailand journalist network, known as 'Voice Peace', has also been highly active. Voice Peace publishes online at www.voicepeace.org. According to chief editor Tuan Daniya Hj Mansor (2009), the network advocates complete freedom of information in South Thailand, and tries to provide alternative information to that presented by mainstream media outlets that have to date been monopolized by investors and controlled by the government. Voice Peace is supported by a think-tank, also comprised of journalists, called DSW (Deep South Watch). While [voicepeace.org](http://www.voicepeace.org) places emphasis on news, feature articles and human-interest pieces, DSW is focused more on publishing research data on its website (www.deepsouthwatch.org). According to its two founders, Ayub Pathan and Dr Srisombop Jitpiromsri (2009), DSW is a place where journalists can gain and analyze data that cannot be accessed elsewhere.

Almost all individuals and groups mentioned above are pursuing peace efforts in their own ways. However, Ahmad Somboon Bualuang specifically emphasizes that his struggle is for the creation of peace and for mediation between groups, especially between separatists/insurgents and the government (local and central). Ahmad Somboon Bualuang is a senior NGO activist and a civil service pensioner. For some time, he has been involved in peace initiatives and mediation between groups in conflict in South Thailand. He has close relationships with a number of actors in the insurgency and separatist movements even though he himself does not agree with their violent methods, that have recently become more random and arbitrary, with the bombing of streets and markets and other public places. He was appointed to be a member of the NRC (National Reconciliation Commission), formed under Thaksin Shinawatra's government to resolve the violent incidents of 2004. He believes the government has not done enough to bring Malay-Muslims out of their marginalization caused by past repression and current government indifference and neglect of cultural and linguistic differences (for example, the making of Thai

or Siamese the standard language when Malay-Muslims did not use or understand it.)

Repressive and uncompromising policies on the part of the Thai government towards movements that demand independence and autonomy in the three provinces of South Thailand have meant that no prominent figures or movements amongst the Muslim minority have emerged. However, democratization since the 1990s and the violence that peaked in 2003–2004 has helped consolidate social and civil society movements that have placed emphasis on struggle in the public realm as opposed to the usual underground movements. Nevertheless, they must still negotiate with each other and with the underground movements that still exist, in addition to with the central government, in order to struggle for minority rights.

Penang, Malaysia

A policy to favor ethnic Malays over migrant Chinese and Indians in Malaysia has been in place since before independence, when the BN (Barisan Nasional, National Front) was a coalition of many ethnically-based parties. The coalition was led by UMNO (the United Malays National Organization) which was a reflection of Malay majority parties and had been in power since before Independence. After violence during the 1969 election, the BN Government implemented an acceleration policy to promote the Malays or *Bumiputera* in 1971 that was known as the New Economic Policy (NEP). The policy was aimed at achieving economic equality between migrants or non-*Bumiputera*, particularly the Chinese, and the Malays or *Bumiputera*. Since then there have been no significant parties or coalitions that have been able to oppose the power of the BN. However, after Anwar Ibrahim, initially the deputy leader of UMNO under Mahathir Mohamad, was released from prison he established an alternative coalition called PR (Pakatan Rakyat, People's Alliance) and ran in elections in 2008. He secured a significant number of seats, increasing the seats held by his PKR (Partai Keadilan Rakyat, People's Justice Party) from one seat to 36,

or a total of 40 percent of seats. Anwar also introduced an AEP (Alternative Economic Policy) to replace the NEP.

The context in Penang is very different from that of the Philippines and Thailand. The March 2008 elections saw the government lose five of 13 states to the opposition. The opposition campaigned on the primary aspiration to abolish the NEP which had been applied since 1971 and basically gave priority to the *Bumiputera* in state policies. In Penang, the change was felt more clearly because it was one of the areas in which the opposition coalition seized control from the government. Although the governing party prior to the 2008 election was a Chinese majority party, in regard to the NEP they supported the BN's national policy.

In 1971 the *Bumiputera* only controlled 1.7 percent of the national economy, in contrast to the percentage controlled by non-*Bumiputera*, particularly the ethnic Chinese who controlled more than two thirds of the national economy. This led to a general awareness of and, after interracial unrest during the general election of 13 May 1969 (Soong, 2007), a more concerted push for affirmative action, actualized in what became known as the NEP. In 1981, Prime Minister Mahathir Mohamad accelerated the NEP. The policy was aimed at creating economic equality, bringing the percentage of Malay control over the economy from 1.7 percent in 1971 to 30 percent 20 years later (Jomo, 1990-1991: 469-99; Omar, 2005: 13-18).

Anwar Ibrahim offered a 'New Economic Agenda', arguing that the NEP (and subsequent National Development Policy and National Vision Policy) and the policy of Malay or *Bumiputera* supremacy was no longer appropriate if Malaysia wanted to compete on both a national and international scale (Ibrahim, 2008). Although Malays have indeed benefited enormously from the previous economic policy, with the latest government data indicating that they control around 19 percent or more of the economy, inequality within ethnic groups, especially amongst the Malays, has increased. Anwar has stated that this is because wealth finds its way largely into

the hands of the elite, and most Malays are left with barely anything. Affirmative action must be channeled towards all who require it. Anwar thus proposed the concept of 'People's Supremacy'. According to Anwar, Malaysia must implement fair competition through meritocracy, open tenders and healthy democracy (Ibrahim, 2008).

Under this PR vision, Penang's Chief Minister, Lim Guan Eng from the DAP launched a blueprint proposing that "Open tenders and capping the private sector profits at a reasonable rate of return will ensure the protection of public interest without sacrificing efficiency and productivity." (Guan Eng, 2009: XII-XVII). The DAP-PR coalition is also struggling for a new federal model for Penang that gives more power to local governments, which means more control over natural resources. The Penang government is also more aggressive in making use of global opportunities (Loh Wah, 2010). It is not surprising that in Penang, the Muslim minority is wary that it may lose its privileges and rights as *Bumiputera*.

Though the Muslim minority had the advantage of *Bumiputera* status on Penang, this did not mean it was raised to a similar economic and political position to the ethnic Chinese majority. As Anwar Ibrahim has claimed, the Malay Supremacy Policy itself is all about monopolies, collusion and nepotism within the BN elite, both amongst the Malays and the UMNO party representing the Malays, as well as amongst the Chinese PGRM (Parti Gerakan Rakyat Malaysia, Malaysian People's Movement Party) and the Indian MIC (Malaysian Indian Congress). From this perspective, it is clear that the 2008 election results bringing DAP, from the PKR coalition, into power has opened up the opportunity for minorities to regain their rights through open competition. In Penang, the DAP has displayed a vision consistent with that of the PR, led by Anwar Ibrahim (Othman, 2009). Despite the good intentions of DAP's policies, interviews with a number of Malay figures in Penang and members of Islamic/Malay mass organizations and NGOs suggest that they fear that meritocracy and open tenders will further

marginalize Malays under Chinese hegemony, because in reality the Chinese are much stronger, especially in open competition.

Islamic organizations in Penang such as ABIM (Angkatan Belia Islam Malaysia, Malaysian Islamic Youth Movement), PUM (Persatuan Ulama Malaysia, Association of Malaysian Ulama), and PERKIM (Pertubuhan Kabijakan Islam Se-Malaysia, Malaysian Islamic Welfare Organization) have expressed concerns over the marginalization of Malays in Penang, and are increasingly associating themselves with the majority in Malaysia and displaying conservatism in their Islamic understanding. On the other hand, they support the DAP–PR coalition's agenda to remove the draconian laws in Malaysia that have been used by the government to preserve their hold on power. ABIM was established by Anwar Ibrahim, amongst others, in the 1980s. Ideologically the organization was initially similar to PAS (the Pan-Malaysian Islamic Party), which advocated an Islamic ideology. However, Anwar Ibrahim became so powerful as to concern Mahathir Mohamad, leader of the UMNO/BN party. Mahathir thus recruited Anwar Ibrahim into the UMNO party. This caused tension between ABIM, which tended towards PAS's orientation, and Anwar, who was now a part of UMNO.

Now that Anwar Ibrahim leads the opposition, ABIM has become somewhat closer to him once again and supports some of PR's policies. One of the most important issues it supports is the agenda to abolish the NEP, though for slightly different reasons. ABIM's primary argument against the NEP is that it causes corruption within UMNO/BN. Nevertheless, according to Zayd bin Hari (2009), the head of ABIM on Penang Island, ABIM is not a political organization and thus its support of the PR agenda is not political support. He said that ABIM is more about giving religious guidance to members. In the current situation on Penang Island, ABIM is most concerned about the morality of Muslim youth. However, it also supports the eradication of corruption and nepotism, and greater transparency. Zayd bin Hari argues that if openness and open tenders are not introduced fairly, it will make

the already weak ethnic Malays much weaker in comparison to the ethnic Chinese.

JIM (Jemaah Islam Malaysia) is an NGO that was established in Kuala Lumpur in the 1990s and aimed at reforming Islam. The organization has always been critical of the government and offers a conservative understanding of Islam. It is very popular among professionals. In Penang, according to JIM member Daniel (2009), who is also a dentist, JIM supports the PR agenda, especially with regard to abolishing draconian laws and enforcing human rights, as well as addressing poverty in a non-discriminatory way.

PUM is a relatively young organization, formed in 2000 to help strengthen social organizations and NGOs. According to the PUM coordinator (Anonymous, 2009) who prefers to remain anonymous, the term *ulama* in the name of the organization refers not to religious leaders but rather to intellectuals who care about social issues. In accordance with its aim, the organization is more of a consortium, and incorporates mostly social organizations and NGOs. The organization does not itself work directly with society but works only through one or more of the member organizations or NGOs. It does however hold a variety of training programs and seminars to increase the skill levels of activists. It does not have a specific stance on the *Bumiputera* issue, but aims in general for justice. The reality in Penang, the PUM coordinator says, is one of inequality between the *Bumiputera* and the Chinese majority, and as a result the organization is critical of the effect that the abolition of the NEP policy would have in Penang.

The most prominent NGO in Penang since the 1970s is Aliran, which was established by renowned intellectuals and activists. Its membership is open to persons of all races, religions and ethnicity. It was originally formed to criticize government policy biased towards a particular race or ethnicity, such as the NEP. The organization is focused on analytical criticism and intellectual awareness. In addition to academic studies and findings, Aliran publishes a monthly journal that is easy for the general public to read but that uses an academic

approach. According to Mustofa Kemal Anuar, secretary general of Aliran, the organization not only critiques government policies that are based on race and ethnicity but also promotes pluralism in politics in Malaysia, particularly in Penang.

In response to criticism concerning the fate of the *Bumiputera* under the now governing coalition PR party in Penang, the PKR deputy Chief Minister for Penang Island, Mansor Othman said that in order to increase equality and implement open competition, the Penang Government has established a program for affirmative action for the poor and needy that is based on need rather than ethnicity. He said that more than 80 percent of those benefiting from the program are ethnic Malays.

Today, the Penang Government which advocates open tenders and equality is facing challenges from two sides; the central government and the Muslim minority which wishes to maintain affirmative action for the *Bumiputera* as it fears the Muslim community will increasingly be left behind.

Conclusion

The movement towards openness and democracy in the three countries studied here are indicative of the increasing role played by civil society and social movements compared to political movements such as separatist or underground movements, in the political struggle of Muslim minorities to achieve their aspirations for equality and justice. Within all these movements there are many differences of opinion. Yet the public realm is playing a larger role in negotiations, both between different Muslim minority movements, and between these movements and central governments.

The rejection by the Supreme Court in the Philippines of the MOA-AD, in addition to threats of escalated violence, has tended to strengthen Muslim civil society which clearly wishes to take a non-partisan position distinct from the two separatist movements of the MNLF and the MILF. Similarly, in Thailand, the result of the peak in violence in Patani in 2013–2004, the return of power to the military,

and the declaration of an emergency situation and introduction of Martial Law strengthened the emergence of several social groups who defined their own agendas and distanced themselves from the separatist movement. These developments do not mean that there is opposition or friction between civil society and the separatist movements in the two countries. Rather, the strengthening of civil society functions as a kind of circuit breaker which decreases the level of violence, while it does not neglect the substantial demands of autonomy, eradication of poverty and inequality, and justice for all.

Meanwhile, in Penang, the Muslim civil society movement, which existed before the relatively drastic change brought about by the 2008 election, generally welcomed the agenda to abolish the draconian laws (which have always troubled civil society movements, even Islamic movements), and to eradicate corruption and manipulation. However civil society groups remain unconvinced as to whether the abolition of the NEP will be able to increase the prosperity of the *Bumiputera* to be on a par with the Chinese majority. Identification with the national majority and a tendency towards Islamic conservatism is increasingly apparent, due to concern over continued inequalities if the *Bumiputera* have to compete freely and openly with the ethnic Chinese majority, who are more highly educated and economically savvy.

Endnotes

1. There are several books that could be mentioned here, all of which focus on Muslim migrants in developed countries but emphasize either the right to worship or instruct on the ways to worship and perform religious ceremonies. See for example Yusuf al-Qaradawi, *Fi Fiqh al-Aqalliyat al-Muslima—Hayat al-Muslimin Wasat al-Muitam'at al-Ukbro*, Cairo: Dar as-Suruq, 2001M./1420H; Sulamean Muhammad Toboliak, 1997H/1418H, *Al-Ahkam Ay-Siyasiyah: Li al-Aqalliyat al-Muslimat fi al-Fiqh al-Islamy*, Bairut: Dar an-Nafais wa Dar al-Bayaariq; Shalah Abd al-Raaziq, 2007M/1468H, *al-Aqaalltayat al-Muslimat fi al-Ghorb: Qadloya Fiqhiyyah wa Humuum Thaqafiyah*, Baghdad: Dar al-Hadi; and Shammai Fishman, *Fiqh Al-Aqalliyah: A Legal Theory for Muslim Minorities*, *Research Monographs on the Muslim World*, Series No 1, Paper No 2, October 2006.
2. The field research was held in Thailand (July–September 2009), Malaysia (October–December 2009) and the Philippines (January–March 2010).

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CHAPTER II

CITIZENSHIP CHALLENGES IN MYANMAR'S DEMOCRATIC TRANSITION: CASE STUDY OF THE ROHINGYA-MUSLIM*)

Introduction

In Myanmar's census from 30 March to 10 April 2014, the first in three decades, the Myanmar government refused to count the Rohingya ethnic group (ICG, 2014). The census was part of the Myanmar transition to democracy, which began after the election in 2010, and was funded by the UNFPA (United Nations Population Fund) (*The Time Magazine*, 1 April 2014). This restriction was representative of the Myanmar Government's rejection of Rohingya as citizens. The paradox is that democracy necessitates a guarantee of fundamental freedoms and recognition of the diverse group identities of citizens. However, in practice, democracy in Myanmar is justifying discrimination and exclusion of the Rohingya ethnic minority in the country, and also against other non-Buddhist minority groups, such as the Christian Kachin community. The entrenched dominance of the military and increasing religious sectarianism makes fighting against the discrimination and exclusion faced by the Rohingya difficult.

Discrimination against certain minorities and conflict between majority and minority groups are common in democratic transitions due to religious or ethnic reasons, at least in the Southeast Asian region such as in Myanmar. Discrimination and conflict occur in both Muslim majority countries such as in Malaysia between Chinese and Indian ethnicities (Suaedy, 2010a), and in Indonesia against particular minority religious groups (Suaedy, 2011a; Suaedy, 2012).

The Muslim minority in Southern Thailand in Buddhist-majority Thailand (Suaedy, 2010b) and the Muslim minority in Mindanao in the predominantly Catholic country of the Philippines (Suaedy,

*) This paper was written in collaboration with Muhammad Hafiz

2011b) also still struggle for equal rights. However, the discussion in this paper will only focus on the case of Myanmar's Rohingya ethnic struggles in the transition to democracy after the 2010 elections.

Myanmar's democratic transition since 2010 has raised substantial questions over the position of ethnic and religious minorities, particularly regarding the ethnic Rohingya. Democratization has led to reconciliation or accommodation between civil society and the military junta who ruled for 20 years, with the first general election being held in 2010 and another election for legislative members in 2012. However, the process of accommodation between the military and civil society, and democratization in general has also led to accusations of ethnic cleansing of the Rohingya, an indigenous ethnic minority who have lived in the Rakhine State (previously known as Arakan) for centuries. Discrimination against other religious and ethnic minorities still continues in Myanmar.

Discrimination against minorities in Myanmar occurred long before the transition phase (Leider, 2013: 252). However, the most severe discrimination against the ethnic Rohingya started in the process of democratic transition and has continued until now. Think tank and research institutions, as well as international NGOs, have stated that the Myanmar government's treatment of the Rohingya is an act of ethnic cleansing because they are not recognized as citizens. The State denied their identity as citizens, and half the Rohingya were displaced by the government and majority Buddhist population in Rakhine. The situation of Rohingya ethnic cleansing leads to the questions in this paper: Why did systematic and massive discrimination occur against the Rohingya? And how are the Rohingya community fighting for their rights in the process of Myanmar's democratic transition?

In principle, according to anthropologist Leider (2013: 205), the recognition of a particular ethnic or religious group in the context of state building is not something given but a political negotiation process until the minority's existence is awarded citizenship. In other words, the existence of an ethnic group and claims to identify with a particular ethnicity are not always apparent and automatically parallel with the

recognition of a certain ethnicity and religion in the nation building of a country. Recognition of ethnic and religious groups follows a political process and negotiations between and within groups of citizens. The converse could also be assumed: the rejection of certain ethnic and religious groups in a country is not something given but is a political process that involves negotiations (Leider, 2013: 205).

Thus, rejection of ethnic Rohingya in Myanmar is part of a process of political negotiations in the development of the nation itself. Article 27 of the International Covenant on Civil and Political Rights states that *“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their religion, or to use their own language”* (<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>). Therefore, based on this view, the claim of identity depends on whether the group itself wants to be recognized, and if so, with which identity. It is not an offer enforced by outside parties. Outsiders or even a state should allow a group to claim their identity and they should not be forced to use their identity in accordance with the will of the state or the majority. However, the political process requires that negotiations should occur. This paper explores how the Rohingya community, through its leaders is fighting for their identity as Rohingyas because in the process of democratic transition in Myanmar the majority population and the government officially rejected their identity.

The Debate on the Rohingya Ethnic Identity and Muslim

Rohingya's claim on their identity is disputed amongst academics, the majority population and the government of Myanmar (Leider, 2013). It is beyond the scope of this paper to determine the truth of claims by the Buddhist majority and Government of Myanmar's claim or the Arakanese/Rakhine Rohingya. Rather, this paper reviews the opposing arguments and the dynamics involved

between those who reject the Rohingya identity and those who fight for recognition as Rohingya.

In depth and detail, Leider (2013) investigated the origin of the word 'Rohingya' and the movement fighting for the identity of Muslims in the Rakhine state. According to Leider, the word 'Rohingya' has been known since the 9th or 10th century CE. The name 'Rohingya' as a nickname or ethnic identity for a group of Arakanese became popular in the 1950s and later Rohingya was identified as a fighting movement for the ethnic Muslim group who live in the Arakan region. Later, according to Leider, the Rohingya identity became a symbol of the struggle for rights and was popular with the international media, human rights NGOs, and the United Nations. The linguistic origins of the word 'Rohingya' is also debated. Some consider that the word 'Rohingya' was derived from the word 'Arabic' which, in the local pronunciation, became '*Rohang*' and therefore became a place where individuals referred to themselves as 'the Rohingya'. Identity then became a kind of ethnic Rohingya for those who live in the region of Rohang. However, according to Leider, another perspective is that the Rohingya originated from Indian misspelling of the 'Rakhine', a region which has now become one of the Myanmar provinces where part of Rohang is inhabited by the Muslim majority (Leider, 2013).

Meanwhile Yegar (1972) states that the Muslim community has been in this area since the inception of Islam around the 8th century CE. An Islamic kingdom in Bengal (now part of the territory of the state of Bangladesh) ruled this area and dealt with the Kingdom of Arakan. Most of the population of Rakhine State trace their origins to this Islamic kingdom and some of them also originated from Arabic, Persian, or Indian groups. The Muslim community had established a kingdom in the region and was confronted by the Arakan Kingdom. The Islamic kingdom was then conquered by the Burmese Kingdom at the beginning of the 18th century. After British colonization, there was a massive migration of Indian Muslims to the region. Therefore, the Rohingya community claim

that the Rohang region is the origin of the Rohingya and not from Bengali (Abu Tahay, 2010).

According to Leider, previously, in the era of British rule, for example, the Rohingya were known as Arakan Muslims, although some historians and writers started calling them the Rohingya. Leider also showed the existence of a political dimension in the claims of identity by the Rohingya Muslims of Arakan/Rakhine, namely the motivation to claim of their area against acquisition in Arakan that is now inhabited by some of those who once as a kingdom were ruled by Muslims for more than 350 years (Leider, 2013: 231-232). In a period of post-independence history, they even fought for independence and division of the territory from the State of Burma/Myanmar. Leider has even linked this movement with the emergence of the Islamic militant groups that has penetrated the region (Leider, 2013: 248-249). Historically, ethnically-based tensions between minorities and rulers have been a common phenomenon in this country and have led to minorities wanting to separate from the central state (Walton, 2008: 889). However, in the context of the post-democratization in 2010, there has been a shift whereby Muslims who claim to be Rohingya in Arakan, as far as the findings of this study show, did not demand the independence of their region but require equal rights and recognition as Rohingya.

Leider (2013) further concluded that the wide spread of identity claims by Rohingya in recent years became a kind of localization of regional, original identity. This situation included not only Muslims in the Arakan identifying as Rohingya, but also other Muslims in Myanmar generally, especially those who have similar physical characteristics (Leider, 2009: 343).

Rohingya leaders have several arguments for their claims regarding the identity of the Rohingya. According to a Rohingya leader and Director of the Rohingya Resource Network, Abu Tahay, historical evidence shows that the Rohingya are the original inhabitants of a region known as Rohang in the state now referred to as Rakhine. Tahay states:

There is significant evidence that shows that the Rohingya are part of the ethnic Myanmar population, and have in fact been the indigenous ethnic group of Rakhine State for centuries. A number of documents, both archaeological and academic and even English colonial and Myanmar post-independence government documents state that the Rohingya are the original inhabitants of Myanmar, and are ethnically distinct from the Bengalis, Hindus or Khmers. (*Tempo Magazine*, 13-19 April 2014, p. 112).

Thus, in Myanmar there is evidence of discrimination against Muslim and other minority groups, such as the Christian Kachin. The discrimination against the Rohingya is due to their identity as Rohingya and against Muslims generally. Through a number of different ways, after reformation the Myanmar government has sought to strip the Rohingya of their status as original Myanmar citizens.

Myanmar and Democratic Transition

Myanmar has been known for its repressive government under military rule (Amnesty International, 1990: 1), since the 1962 military coup and until elections in 2010. Aung San Suu Kyi's opposition party won the first election in 1990, but the military junta refused to acknowledge it and retained power. The military also arrested a number of political leaders and activists, including Aung San Suu Kyi, in an attempt to silence the democratic movement. In doing so, the junta reinforced its image as a repressive leader.

However, the Myanmar government has shown evidence of opening up since 2008. Eminent international pressure was applied following the massacre at the pro-democracy demonstration in 2007, which was dominated by Buddhist monks and the so-called 'Saffron Revolution' referring to the monks' robes (Tailor, 2008: 247). In 2008 the Myanmar military junta announced, through the SPDC (State Peace and Development Council), a plan to create a new constitution as part of a planned progression towards

realizing democracy in Myanmar and to give the opportunity for international bodies, including international NGOs, to engage with the process (ICG, 2009: 3). This was accompanied by the release of the Noble Peace Prize winner and opposition leader Aung San Suu Kyi from the house arrest she had been subject to since 1990, as well as the release of about 200 other political prisoners. Aung San Suu Kyi was also allowed to revive her party and participate in the elections. This new openness presented the possibility to raise discussions on the position of minorities in Myanmar, which had been discriminated against since the military coup in 1962 (*The Guardian*, 2014). Consequently, a number of political parties were formed and took part in the elections, including those established by minority religious and ethnic groups (Smith, 2010: 215).

The opposition strongly criticized the draft of the new constitution proposed by the junta in 2008, because, among other things, it automatically allocated 25 percent of seats to the military in the legislative council and banned those who had married foreigners to be presidential candidates – which was suspected of being a way to prevent Aung San Suu Kyi, who had married an Englishman, from running for the presidency in the 2010 election (ICG: 6). However, the military junta still proposed the draft at a referendum. A report on the 2010 election (Burma News International, 2010) stated that the referendum was held in a militaristic environment, full of intimidation, and eventually on 25 May 2008 the military announced that the draft had been supported by 92.4 percent, or a total of 99 percent across two-thirds of the regions in Myanmar and that it was now the legal constitution.

After the referendum and 2010 election – which was also held in a militaristic and intimidating atmosphere – Myanmar received a lot of international attention. The Foreign Minister of the United States, Hillary Clinton, became the first US Foreign Minister to visit Myanmar in 50 years when she visited on 1 December 2011. For the first time in history, the US President, Barack Obama, did likewise one year later. In 2012, after having been postponed for several

years due to the authoritarian junta, Myanmar was finally appointed to head ASEAN, and in 2014, with help from the United Nations, Myanmar undertook its first population census in 30 years.

For the 2010 election, the military was behind the USDP (Union Solidarity and Development Party), which represented the interests of the Myanmar elite and the military, which tended to be the status quo. USDP won the election outright, while Aung San Suu Kyi's opposition party, the NLD (National League for Democracy), boycotted the elections because of the article in the constitution and law which hindered the chance of the NLD winning the election and prevented Aung San Suu Kyi from running for the presidency. However, there were a number of smaller parties representing different religious and ethnic groups, which took part in the elections. Some of those leading these parties were from the Rohingya ethnic group, which had supported Aung San Suu Kyi in the 1990 election and had a reputation of opposing the junta. As a result, a certain number of them won seats at the council in the election, but these were revoked by the military (Tahay, interview 21/3/14). Abu Tahay was the political leader of the NDPD (National Democratic Party for Development), before he established and became chairman of the UNDP (Union National Democratic Party) and won five seats, but all were annulled and given to the party that supported the government, USDP. The UNDP took the case to court and it was ruled that the candidates from the Rohingya as a party had won the seats but that they were revoked because they were Rohingya candidates (Tahay, interview, 21/3/14).

In subsequent developments, a number of negotiations and compromises enabled Aung San Suu Kyi's party, the NLD, to participate in the 2012 election. This time, the opposition leader became a member of parliament for her region and secured 41 of the 44 seats available in the region. Aung San Suu Kyi now hopes for further changes to the constitution that would enable her party to win the election and for herself to run as president in the 2015 election. She plans on boycotting the election if the required constitutional changes are not made.

It is necessary to note here that the governmental systems in the provinces or federal states in Myanmar are based on the ethnic or religious groups and the majority of them consist of Buddhist and Burmese ethnicities, where the states are determined by ethnicity or religion. As such, the parties formed after the opening of Myanmar also represent ethnic, religious or regional identities. The ethnic Burmese, being the majority, support several political parties, including the ruling USDP and the largest opposition party, the NLD. In the context of democratization, a number of the smaller parties based on religious or ethnic minorities supported Aung San's political party. However, these parties are also quite plural, and include parties from the Rohingya ethnic group (Tahay interview, 21/3/2014).

Interethnic and Interreligious Relations in Myanmar: A Problem of Minority

Approximately 60 to 65 percent of the population in Myanmar are ethnic Burmese who adhere to Theravada Buddhism, and they dominate the government and military. Historically, the ethnic Burmese majority was marginalized by the English colonizers, which lead not only to their dislike of the English but also of the minorities who, at the time, worked with the English. English discrimination against the majority and favoring of minority-led remote states, which were inhabited by ethnic minorities, to take up arms against the British and support the central government in the post-independence era (Ekeh & Smith, 2007; Taylor, 2007: 70). Eventually, General Aung San, the father of Aung San Suu Kyi and a young military leader who became an independence hero, united these ethnic groups under the Panglong Agreement of 1971 (Walton, 2008: 889).

Official government data shows that Myanmar is home to 135 ethnic groups, not including the different sub-ethnicities within each ethnic group, which reside in particular areas and are the majority in those areas. Even today, several ethnic groups still have separatist aspirations or wish to secede (Thawngnhmung, 2011: 3-4). States

in Myanmar tend to be based on ethnic identity, and many have their own political organizations or parties that are based on the same ethnic identities. These identities are distinct, but many are concentrated in certain areas and constitute the majority in those areas. However, there are also some that are spread across a number of regions, particularly in larger cities such as Yangon, the former capital of the country.

The first president elected in Myanmar's 'democratic' era, General (ret.) Thein Sein, was considered unable to resolve the conflict and discrimination against minorities. Thein Sein tended to follow the wishes of the military junta and the Theravada Buddhists, both of whom discriminated against and marginalized the minority in regard to politics and citizenship. These minorities included the ethnic Kachin who are Christian and the Rohingya, who are Muslim (CSW, 2012). The Rohingya, but also Muslims in general, faced the greatest discrimination. The government was unable to protect the Rohingya victims of discrimination, and, according to some reports, even participated in acts of violence and helped evict them from the land in which they had resided for hundreds of years. A video from a New York Times journalist (Ellick & Kristof, 2014) supported evidence of inhumane treatment of the Rohingya, both at the hands of society and the government, particularly in the state of Arakan (Rakhine).

The former political prisoner and activist, who now leads a think tank for democracy in Myanmar, Myo Yan Naung Thein, criticized President Thein Sein for treating citizens unfairly. "After dressing up as a reformer, President Thein Sein is adopting an increasingly nationalist stance," Myo said (*The Guardian*, 2014). This was spoken in reference to President Thein Sein's inability to resolve violence by the Buddhist majority against the Muslim and Rohingya minorities in the southwest of the state of Rakhine (Arakan) in 2012 and in Meiktila, a city in central Burma, which resulted in at least 200 deaths in 2013 (International Crisis Group, 2013: 12).

The most recent case of official discrimination by the government has been its refusal to include the Rohingya as citizens in the population census at the end of March and beginning of April 2014. The Rohingya were not included on the government list of 135 official minority groups. Although one official responsible for the census, Myint Kyaing, Director General of the Department of Population under the Ministry of Immigration and Population, stated that the Rohingya could be included in the census under the category 'other', in practice they were not recorded and have faced eviction (Ei & Aung, 2014). Whereas, according to Rohingya activists and politicians, between 800,000 and 1 million Rohingyas have lived in the Arakan state and across a number of regions in Myanmar for hundreds of years, since independence and even before British colonization, and as such should be recognized as citizens. Although a previously existing group of followers of Islam lived in the area, Yegar noted that massive Muslim migration to the region occurred after the British colonized Burma after the 18th century (Yegar, 1972: 20). In support of their position, the Rohingya leaders, referred to article 6 of the Citizenship Law of 1982, which states that anyone who is "already a citizen on the date this law comes into force is a citizen." In interviews, Rohingya activists and politicians in Myanmar always clarified the status of the Rohingya in Myanmar, both through administrative evidence of the presence of the Rohingya in Arakan state or through empirical historical evidence surrounding Myanmar's recognition of their presence in the early years of independence before the 1962 coup and military rule.

A number of reasons have been put forward as to why the Rohingya are not considered as Myanmar citizens. The main argument is that the Rohingya are considered not to be a native Myanmar ethnic group, but are of the Bengali ethnic group who migrated from Bengali, Bangladesh. The Rohingya themselves believe that their name originates from the place, Rohang, an area in Arakan state, which is where the majority of the Rohingya live.

However, the state insists that the Rohingya are illegal immigrants from Bengali who have no citizenship rights in Myanmar, and that they should be referred to by their native ethnicity, as ‘Bengalis’ not as Rohingyas, which suggests that they originate from Rohang (Perlez, 2014; Tharoor, 2015). This was expressed by a conservative monk in Myanmar during a discussion on the freedom of religion and belief in the ASEAN People’s Forum, where the author was a speaker, at the Myanmar Convention Center, Yangon, Myanmar, on 22 March 2014. This is just one example of the general perception of Myanmar society, particularly the monks, concerning anti-Rohingya propoganda. The majority of Myanmar citizens do not like to refer to the Muslims living in Arakan as Rohingya, but call them ‘Bengalis’.

Historically, according to Rohingya sources, they have lived in Rohang for hundreds of years, before the British arrived in the 18th century. As such, according to Myanmar’s first constitution after independence, ethnic and religious minorities deserve the same recognition and status as all citizens, including Rohingya and other groups. The recognition of Rohingya was established and existed before independence. Until the 1962 coup they lived as all other citizens in Myanmar and participated in elections without any issues as to the status of their citizenship (*The Guardian*, 2014).

In addition to issues over ethnicity, another challenge for democracy in Myanmar is the relation between Theravada Buddhists and non-Buddhists. The threat towards Islam increased when the state started to participate in discriminating minorities, by ignoring the violence occurring and by allowing hardline monks to spread hatred. “Hate speech is everywhere and every time (sic), there’s no law enforcement from the government or police”, said Myo Win, an imam and Muslim activist in Yangon, who is interested in peace and development (Interview in Yangon, 23/03/14).

Hate speeches and negative propaganda against the non-Buddhist community, in particular the Rohingyas, has influenced civil society and pro-democracy groups, who have tended to counter the government’s anti-democratic politics. Pro-democracy

and civil society groups have been inclined to be quiet on issues of religion and ethnicity, because they face threats from the government and community groups. During the ASEAN People's Forum from 21 to 24 March 2014, for instance, at which the author was present, NGOs highly critical of the government in Myanmar across a variety of fields refused to have their recommendations concerning discrimination against the Rohingya included in the recommendations report produced by the forum because they were scared of political consequences, both by the government and Buddhist society. In a report at the end of 2014, the Pew Research Center described Myanmar as having the most fragile guarantees of freedom of religion and belief due to the increased restrictions such as the bill on birth restrictions for Muslim families and threats by the state and society towards non-Buddhist minorities (Pew Research Center, 2014: 8).

The discrimination is apparent in a number of policies prepared by the government, which are currently being discussed in parliament, as a result of pressure from the Buddhist '969 Movement'. The 969 Movement was an anti-Islam movement in Myanmar, led by a radical Buddhist monk, Ashin Wirathu. Wirathu was a young monk involved in the Saffron Revolution in 2007. At the time Ashin Wirathu was not so well known, but after his release from prison in January 2011 he became famous for his provocative anti-Islam activities. Wirathu often travels to regions in Myanmar to give provocative sermons in front of the masses. Early in 2014, he called for the boycott of anything associated with Islam, such as trade or daily interactions.

The three digits '969', which now appear on cars, motorbikes, shop doors, houses, and other public places in Myanmar, signifies the reemergence of pride in Buddhism and a return to its essence. "But, in the new Myanmar, 969 is actually a vehicle of anti-Muslim hatred and Buddhist brainwashing" (Marchand, 2013). Wirathu himself declared, "I am proud to be called a radical Buddhist" and "Muslims are fundamentally bad. Mohammed allows them to kill any creature. Islam is a religion of thieves, they do not want

peace” (Marchand, 2013). Ashin Wirathu claims to be the Burmese Bin Laden, associating himself with the late Islamic terrorist (Marchand, 2013). Wirathu rejects claims of evicting and killing Muslims in Myanmar, but the actions he takes have inspired the majority to partake in violence, eviction and arson attacks against Muslim families in Myanmar, in particular the Rohingya in Rakhine state. The 969 Movement is, under Wirathu’s leadership, currently proposing a bill in Parliament to ban people from converting from Buddhism and to ban interreligious marriage, particularly between a Buddhist female and a Muslim male (Thompson, 2013).

These policies include a bill which bans Buddhists from marrying non-Buddhists; bans conversion from Buddhism to another religion; provides protection to female Buddhists who are forbidden to marry non-Buddhists unless the male converts to Buddhism, with the stipulation that should he revert to his original religion all his assets belong to the female; and bans anything but monogamy, which specifically targets the practice of polygamy in the Muslim community (Interview Myo Win, 23/03/ 2014).

With regards to the issue of religious conversion, the bill grants township-level officials from various government departments sweeping powers to determine whether an applicant has exercised free will in choosing to change religion. Chapter 5, Article 14 (a) of the Myanmar Religious Conversion Bill, states: “No one is allowed to apply for conversion to a new religion with the intent of insulting, degrading, destroying, undue influence or pressure”, violation of which could be punished by up to two years’ imprisonment (2014). Although not explicitly stated, a number of religious minorities as well as several national and international human rights organizations believe that policy is aimed at preventing all conversion from Theravada Buddhism to any minority religion. On 14 June 2014, coordinated by the Chin Human Rights Organization, 80 civil society organizations across the world presented a petition to the Myanmar Government to immediately revise or halt discussion of the bill because it threatened minority religious groups in Myanmar.

As regards the Law on Interreligious Marriage, Wirathu made a number of statements in the media, to the effect that he and hundreds of other monks had long pushed and waited for such a law. In one release, he stated “This marriage law means Myanmar girls can marry people of different religions, but their future husbands have to become Buddhist...When Myanmar girls get married to Muslim men, they are pressured to convert to Islam, so this marriage law will prevent this and protect our society” (Surbakti, Auskar 2013). Aung San Suu Kyi, who has become increasingly strong after the NLD secured a number of seats in parliament, has not had any effect on the discrimination and violence against minorities. She has been practically silent on the issue, even though many of the minority parties, especially the Rohingya ones, have supported her since the 1990 election and even some members were jailed as a result. Aung San Suu Kyi seems to have lost her moral credibility. As a recipient of the Nobel Peace Prize and an advocate for democracy, her silence on the issue of religious violence in her country, with regards to the Rohingya case, seems inconsistent especially since she is a member of parliament (Loxton, 2012).

A report by Christian Solidarity Worldwide (CSW) in 2013 revealed that the increase in violence against the Rohingya did not only occur in Arakan, the region in which the majority of Rohingyas live, but also in Yangon, the largest city in Myanmar and the former capital of the country. CSW reported that on 20 March 2013 religious violence broke out against the Muslim minority. It began in the district of Meiktila, Mandalay, spread to four other cities in Mandalay and eight in Pegu, and lasted for more than nine days. Around 44 people were killed in Meiktila and more than 12,800 lost their houses. Although not a target, tension emerged in Yangon, where shops closed early due to fear of violence and vandalism (CWS, 2012; Szep 2013).

This incident received international attention. The UN envoy to Myanmar, Vijay Nambiar, deplored the violence. He also emphasized that President Thein Sein had not honored his promise to resolve

the violence (UN News Center, 2013). The United Nations Special Rapporteur on Burmese human rights, Tomas Ojea Quintana, also concluded that there was government involvement in the attack, particularly in regard to its duty and that of the security apparatus to protect victims. According to his report, at least 40 people were killed and a number of mosques in central Burma were burnt after 20 March. "I have received reports of State involvement in some of the acts of violence," Tomas Ojea Quintana said in a statement after investigation (UN OHCHR, 2013). In fact, he added, communal conflict in Arakan over the last few years has killed at least 200 people, with about 120,000 others losing their homes, the majority being stateless Muslim Rohingyas (VoA News, 2013).

The Rohingya Position

Historically, the Rohingya, who are largely Muslim, lived in Rakhine or Arakan state for hundreds of years before the British arrived. They reside in a region known as Rohang, after which their ethnic identity is named. According to Abu Tahay (2014), the oldest records suggest that the ethnic Rohingya are of Indo-Aryan descent, and converted to Islam in the 8th century CE. They then met and mixed with Arabs, Bengalis and Moguls, as recorded in the 16th Century CE. As a result, the Rohingya have resided in Rohang, in Arakan state, since well before the arrival of the British. The British recorded the Muslims as Arakan Muslims in the 1872 population census (Tahay, tt.: 1; *Tempo Magazine*, 13-19 April, 2014, p. 112).

During English colonization, throughout the years of Independence established in 1947, and by the Constitution after Independence, the Rohingya were recognized as part of the original or native inhabitants of Myanmar and participated in post-independence elections (Tahay, 2014: 6). However, the military *coup d'état* in 1962 introduced discrimination against minorities, including the Rohingya. Discrimination and acts against minorities have increased since 1965 and continue to this day (Ekeh & Smith, 2007). A number of policies and practices of the Myanmar Government

act to exclude the Rohingya. This included the Burmese Citizenship Law 1982. The law stated that the Rohingya were not included as an official ethnic group in Myanmar and the 1982 regulation included a list of other minority ethnic and religious groups that were devalued¹. The government campaign favored the majority by citing the argument that the Rohingya are not native to Myanmar, but are of Bengali ethnicity and are illegal immigrants (Abdelkader, 2013: 104).

As a result of the 1982 legislation, Rohingya national identity cards were revoked and they are no longer legal documents. The proof of citizenship was confiscated, and only a few people living in the capital cities or larger cities were able to obtain new documents under different religious or ethnic group identities (Tahay, n.d.: 7). In addition, a wide scale anti-Rohingya campaign broke out, over the accusation that they were illegal immigrants. The disturbances involved the majority of Arakan residents, including monks, Buddhist leaders and the local government. As a result, the Rohingya have been evicted from Arakan.

The seriousness of the situation in which the Rohingya find themselves, and the lack of any positive indication from the government as to a change in stance, has led to increased international attention. International institutions have published reports either on the general situation in Arakan, or more specifically on individual incidents as they occur.² A Human Rights Watch report (2013) labels the violence and attacks against the Rohingya since June 2012 as crimes against humanity, which tend towards 'ethnic cleansing'. The Burmese Government itself wants to evict or remove all Rohingya from Myanmar. The government, community figures, conservative religious leaders and monks, backed by the military, organized Arakan residents to attack and evict Muslim Rohingyas in October 2012 (International Crisis Group, 2013). This caused tremendous damage and prevented international humanitarian aid from reaching victims (Human Rights Watch, 2013: 24). As a result, the victims, particularly those evicted from their houses, had no

access to food, healthcare or water (BBC News, 2013), because the Buddhist militants also attacked and vandalized homes, possessions and places of worship, evicting inhabitants (The Time Magazine, 2013), including women and children, who were also victimized in other ways (Abdelkader, 2013: 1-34).

Also, according to Human Rights Watch, President Thein Sien formed a team to investigate the violence, but apparently was not serious about resolving the issue. Rather, he issued a policy to separate or segregate the Rohingya from the Buddhists, with the intention to evict the victims from Myanmar (Human Rights Watch, 2013: 6). The situation, made worse by the anti-Muslim propaganda, was not only fueled by the Arakan community and local government, but also by Buddhist militants. This movement, known as the 969 Movement, is led by monk U Wirathu, and focuses on spreading anti-Muslim propaganda to motivate mass violence and destruction. In fact, Wirathu refers to himself as the 'Burmese Bin Laden', referring to the Muslim terrorist Osama Bin Laden (Altsean, 2013: 6).

The Experiences of Four Rohingya Activists

Based on historical facts and evidence, Rohingya activists² believe that the Rohingya are legal and indigenous citizens of Myanmar. They have resided in the region for hundreds of years before British colonization and when there was no discrimination against Rohingyas. There were no issues about Rohingya citizenship either in the Constitution after independence or the post-independence election as to their status as citizens sharing equal rights with all other citizens. General Aung San, father of Aung San Suu Kyi and one of Myanmar founders, embraced all ethnic groups in Myanmar's efforts towards liberation and building a new country. Zul Nurain, alias Kyaw Min, a prominent DHRP (Democracy and Human Rights Party) activist, said "After independence the question of citizenship became more serious and important. The 1948 citizenship act was enacted. Under 1947 constitution and 1948 Burma citizenship act, [there was] no officially [sic] rejection

against specific ethnic group[s] including Rohingya and they [were] recognized with full citizenship rights” (Interview, 23/3/14).

The change in the way minorities were treated occurred after the military coup in 1962. In 1965 the junta issued a list of 135 Myanmar ethnic and religious groups, from which the Rohingya were omitted. However, the Rohingya are not the only ones to have faced discrimination since then. In 1982 the government issued the law on citizenship, in which the Rohingya were not recognized as citizens and the government withdrew their national identity cards. The Rohingya were no longer considered Myanmar citizens, but were seen as ethnic Bengalis who had migrated illegally from Bangladesh and were allowed to reside in the Rakhine state by the British. The policy was accompanied by a large scale anti-Rohingya campaign supported by the government and the majority of citizens both nationally and in Rakhine state (Kway Min and Tahay, 21 and 22/03/14).

In 1974 Myanmar issued the Emergency Immigration Law to prevent immigration from India, China and Bangladesh. In the law, Myanmar issued new identity cards to all Myanmar citizens (National Registration Certificates). However, the Rohingya in Rakhine state only received temporary cards known as Foreign Registration Cards, in evidence of the fact that the Rohingya were not recognized as citizens but were being given the right to reside (as migrants) in the region. This policy was continued with the Nagamin (Dragon King) Program to select which individuals could live in Myanmar, and take action against those considered not to be citizens. Unfortunately, this program became justification for the Myanmar government to evict on mass the Rohingya who lived in Rakhine, because the majority did not have temporary identity cards. The Rohingya began to flee from their homes.

The exclusion increased and became more systematic when the government issued the new Citizenship Law in 1982 and firmly stated that the Rohingya were not Myanmar citizens. In response

to the 1982 Citizenship Law, Ne Win, Head of Junta Military from 1962 to 1981 and a political and military leader at the time, said that anyone who migrated to Myanmar after the war in 1824 did not have citizenship rights, (this was also stated in Article 3 of the Myanmar Citizenship Law of 1982) even though the Rohingya have lived in Myanmar for more than a century. In addition, the 1982 Citizenship Law also declared eight major races in Myanmar from 135 ethnic groups. The Rohingya were indirectly excluded from the eight major races as they were not included as an ethnic group in Rakhine state.³ The law strengthened the Myanmar government's insistence that the Rohingya were not Myanmar citizens and that they should be excluded from the eight major races in Myanmar. In 1990 the government issued an additional regulation that banned the Rohingya from participating in public elections, and since 1991 hundreds of thousands of Rohingya have fled to Bangladesh.

Activists have attempted to reinstate the Rohingya as citizens through a number of different ways, both involving political parties and social organizations, NGOs and professionals. This included Rohingya leaders joining the opposition ranks in the 1990 election, which was won by Aung San Suu Kyi's party, but was denied by the military junta. After the 1962 coup, it was not until 1990 that Myanmar held a general election, although it was still under the control of the military junta. The election was part of a promise by SLORC (State Law and Order Restoration Council), which held power at the time, to transfer political power in Myanmar through a multi-party election (Tonkin, 2007: 6). The election was held on 27 May 1990, with 15 million voters and 93 political parties for the People's Assembly or *Pyithu Hluttam*, in accordance with Election Law No. 14/89 decreed by the military regime on 31 May 1989 (Tonkin 2010). Aung San Suu Kyi's NLD party won 392 of 485 seats (80.8%) (Eleven, 2014), however since 1990 the regime reneged on its pre-election commitment to transfer power to an elected parliament, and elected MPs continue to be targeted for harassment and imprisonment (ASEAN Inter-Parliamentary Myanmar Caucus 1990).

NDPHR (National Democratic Party for Human Rights) ran in the 1990 election, representing the Rohingya residents of Arakan. However, the junta through Law No. 8/92 disbanded the party on 18 March 1992. U Kyaw Min was a member of the Party's Central Executive Committee, and the party's leader went into exile and in 2003 Maung Sein alias Mohiuddin Yusof established the NDPHR in New York.

One person who was targeted by the military junta was U Kyaw Min alias Zul Nurain, an MP from the NDPHR and member of the CRPP (Committee Representing People's Parliament), of the Buthidaung Township constituency (*The Irrawaddy*, 2010).⁴ In an interview (22/03/ 2014), Kyaw Min confirmed that he was elected to be a member of parliament and was arrested by the Myanmar government on 17 March 2005 after several activities in February. The government also imprisoned his wife and family, revoked his citizenship, and sentenced him to 47 years in prison under the Immigration Act and State Protection Act. "I was imprisoned for 15 years by the military junta before I was finally released", he said. He was only released by the government in January 2012 (Alam, 2012: 4).⁵

After the NDPHR was disbanded and initiated activities outside of Myanmar, Rohingya political leaders tried to establish a framework for struggle through new political parties, especially after Myanmar announced a general election in 2010. This was based, amongst other things, on the consideration that the Rohingya political aspirations needed to be voiced by political candidates, particularly in Sittwe, Buthidaung, Maungdaw and Rathedaung in Arakan State; Kyaukse, Meiktila and Yamethin in Mandalay Division; Mingalar Taung Nyunt, Thingangyun and Tamwe in Rangoon Division; and Moulmein in Mon State. These areas are particularly important because the Rohingya are the second largest ethnic group in the Arakan State, after the Rakhine. Rohingya are in the majority in Maungdaw, Buthidaung and Rathedaung townships, in the northern part of the state. They comprise nearly 30 percent

of the state's population of 2.75 million people. Interestingly, these parties do not use the name 'Rohingya' in their names (*The Irrawaddy*, March 30th, 2010).

According to Abu Tahay (Abu Taher/U Tha Aye) in interview on 21 March 2014 at Yangon, Myanmar, since the 2010 election the Rohingya have four political parties through which they express their aspirations. However, only two parties are officially registered. The party led by Abu Tahay is one of those yet to register. Although his party is not yet registered, Abu Tahay is a prominent Rohingya leader in the Burmese arena and he was a candidate in the parliamentary election in 1990 representing a Rohingya party. He was the founder and became chairman of the UNDP (*Rohingya News Agency*, 2013). Abu Tahay states that the main issue the Rohingyas face is citizenship, because without it being recognized, Rohingyas face discrimination and violence. He said: "This issue of citizenship had been ongoing since the military coup in Myanmar, it's systematic, and the Myanmar Government clearly allows it to occur even today" (Tahay, 21/03/14). In this regard, Abu Tahay notes that the issue is an ethno-religious matter that must be resolved through dialogue with the government.

There are three issues that Abu Tahay (2014) and the UNDP focus on: denial of the historic presence of Rohingya in Arakan and Myanmar; the 1982 Citizenship Law; and retrospective effect. In seeing the Rohingya issue as an issue of citizenship, Abu Tahay and UNDP then seek to facilitate dialogue between the Rohingya and the higher levels of the Myanmar government, emphasizing the importance of implementing the law and constitution. In order to hold such dialogue, three things are required: proof of the citizenship of the Rohingya who live in Arakan; revoking of the 1982 Citizenship Law; and preventing future rejection of the Rohingya. UNDP has conveyed these ideas to the higher echelons of the Myanmar Government, including the opposition, as well as international actors and representatives of other nations, in the hope that it benefits the current situation of the Rohingya in Myanmar.

The two Rohingya parties in Arakan registered in the Myanmar election are the NDPD (National Democratic Party for Development) and the DHRP. NDPD won sufficient support amongst Rohingyas and won two seats (5.7%) in Arakan state (35 seats),⁶ which is home to more than 5 million residents (Ahamed 2010: 5).

U Maung Maung Ni, whose headquarters are located on Bo Sun Pek Road, Pabedan Township, in Rangun, leads NDPD. The party was formed on 4 June 2010. The vision and mission of the NDPD were presented by Chairman U Maung Maung Ni during the National Democratic Party for Development Policy, Stance and Work Programmes (October 9th 2010). Although influential, NDPD faced considerable challenges, and the government party (USDP) did not allow NDPD sufficient chance to influence the Myanmar people, especially the Buddhist majority. A number of reports state intimidation and arrest of supporters by local authorities, both before and after the election. There were heightened tensions in the Arakan state as well, particularly while USDP supporters sought to marginalize the ethnic Rohingya party, NDPD, which was competing in several constituencies with high Muslim populations (*The Irrawaddy*, October 22nd, 2010). This was the same for Abu Tahay who was elected to the People's Parliament, Buthidaung Township, in the 2010 election, but the USDP forcedly denounced his victory and gave the position to Shwe Maung of the USDP. Abu Tahay won 56,882 votes and Shwe Maung from USDP won 53,702 votes, according to election watch in Buthidaung report. (Burma Fund UN Office, 2011: 36). "I won the 2010 election, but the USDP denounced it and took my seat", he said in an interview with the author on 21 March 14 in Yangon, Myanmar.

Besides NDPD, DHRP is the other registered Rohingya party, led by Zul Nurain alias Kyaw Min. DHRP pays particular attention to the Rohingya issue in Myanmar, especially concerning the legal status of Rohingya citizenship and argues that the majority of

Myanmar citizens do not understand the history or geo-politics of Arakan, as expressed by Kyaw Min in *Arakan Monthly* (2012: 2; Min, 2012). Worse, Kyaw Min said during interview that, “The majority of Myanmar citizens believe that “a Burmese is a Buddhist”, so if a Myanmar citizen is Muslim, then he is not a Myanmarian”.

In response to this, Kyaw Min, an important figure of the DHRP and hope for Rohingya citizens, confirmed in an interview with the researcher that basically the DHRP seek to address the Rohingya issue by convincing the Myanmar state and public that the Rohingya are not foreigners who came to Myanmar. On the contrary, they are native inhabitants of Myanmar, since before Myanmar obtained independence in the first half of the 20th century (Interview on 22/03/14).

‘Ethnic Cleansing’ of the Rohingya

After the population census in March–April 2014 that excluded the Rohingya, the Myanmar Government implemented a more specific project targeting the Rohingya. They sent state officials to directly verify the citizenship status of the Rohingya currently in refugee camps. This operation offers the Rohingya a choice between becoming naturalized citizens and removing all trace of an ethnic Rohingya identity by becoming ethnic ‘Bengalis’, or refuse to become Myanmar citizens and face detention as stateless people. However, almost all Rohingya refuse to identify themselves as Bengalis, and as such they are left with only one choice to be stateless or in other words, not recognized as Myanmar citizens. This policy is based on the 1982 Citizenship Law that states that anyone who can prove that he/she and his/her family have lived in Arakan since before 4 January 1948 can apply for naturalization. According to Abu Tahay, Director of the Rohingya Resource Network, the government is currently implementing a pilot project to assess the citizenship status of Rohingya residents in Myebon Township, Sittwe District, Arakan State. It has granted 40 residents status as citizens and 169 persons with citizenship status, from a total of 353 residents who

have been identified as Rohingya. The total number of Rohingya in the region is about 1,940,000 with the remainder being considered not eligible for citizenship. *The Irrawaddy* (7 August 2014) announced that the pilot project had been in force since June 2014.

If it is considered successful, the program will be implemented in several other regions in Rakhine state. Should the project be implemented throughout Rakhine, then, as above, all Rohingya will be faced with two choices, to become naturalized Myanmar citizens and lose their identity as Rohingyas or lose their citizenship. Further, this assessment and granting of citizenship will lead to the eradication of the Rohingya ethnic group from Myanmar, because naturalized citizenship is the equivalent to taking an identity as a 'Bengali' (*Kompas Daily*, October 19th 2014: p. 5.).

In response to the policy, Rohingya activists have run activities to urge the government to stop the pilot project. They continue to try to convince the Myanmar government and the international community of their legitimate citizenship as Rohingya Burmese. Through the Rohingya Resource Center, Abu Tahay has undertaken research and gathered documents proving that the Rohingya are amongst the original inhabitants of Myanmar, who have resided in the region since well before independence, in fact, since the 8th century. However, he has not taken a frontal assault on the government, preferring a diplomatic approach through dialogue. He still hopes that the Myanmar government will recognize the Rohingya as original inhabitants and give full citizenship to all Rohingya, both within and outside of Myanmar (*Tempo Magazine*, April 19th, 2014, p. 112.).

Currently, through meetings with international representatives both within and outside of Myanmar, Abu Tahay is urging countries, which have been building diplomatic relations with Myanmar, to also pay attention to the Rohingya issue. He is also campaigning for discourse on multiculturalism and nationalism to non-governmental communities in Myanmar and internationally, with the hope that the process will lead to improve the Rohingya situation in Myanmar.

As a part of this, during a week-long visit to Indonesia, facilitated by the author, Abu Tahay emphasized the importance of support from the entire Indonesian society in building a better life for the Rohingya, and voiced a need for the Indonesian government and ASEAN to engage in dialogue with the Myanmar government in order to realize a nondiscriminatory long-term solution (*Tempo Magazine*, April 19th 2014, p. 112.).

Aung San Suu Kyi and Hope of Rohingya in the Future

On the issue of Suu Kyi, Kyaw Min understood it was very difficult for Suu Kyi to fight for the Rohingya. According to Kyaw Min, the two elections in Myanmar in 2010 and 2012 were indicative of the change in power the military regime in Myanmar holds. The legislative members in 2010 were all appointed by the regime in an unfair process. However, in 2012 when the election for legislative members was held again, Suu Kyi had the chance to select her own candidates to become members of parliament (Interview with Kyaw Min, 22/03/14). In addition, the strength of religious influence in Myanmar politics has helped counter Suu Kyi's legitimacy in the eyes of the monks in Myanmar, because over time the government has given the monks special positions and sufficient facilities which make it hard for them to support the opposition party.

In a joint statement with the National Democratic Party for Development (NDPD), DHRP said that both parties have committed to building peace and stability in Arakan State. As to concerns related to the census, both parties confirmed that the 2014 census was threatening the existence of the Rohingya people and would lead to the destruction of data for Rohingya ethnic population in Myanmar ("Join Press Conference by NDPD and DHRP", January 10th 2014). Although DHRP, NDPD, and the UNDP are different, at least in the context of ideology, in that the NDPD uses 'religious' reasons as a spirit of movement (interview), they all hold the same objectives, which are to protect the Rohingya and to demand the recognition of Rohingya as an official ethnic group in

Myanmar. They often work together to urge the government to act on issues related to the Rakhine State. In addition to holding press conferences, as mentioned above, in the last population census both parties sent letters to the President and Prime Minister a month before the census. This was according to an interview with one NDPD official, Head of the NDPD Foreign Affairs Department, Ali Naeem (Interview, 23/3/2014) in Yangon on 23 March 2014. Although they received no response from the government, NDPD was convinced that the government and the Prime Minister had received the letter and were aware that it was to ensure that the issue of Rakhine was not ignored.

In accordance with the department he heads, Naeem works more closely with building communication and cooperation with the political elite in neighboring countries, particularly Malaysia and Indonesia, through meetings or the humanitarian aid they give to Rohingya residents. According to Naeem, the primary and fundamental objective of NDPD is to fight for the fundamental rights of its constituents, the Rohingya of Rakhine State. For instance, there are a number of schools in Rakhine, but the Government does not provide teachers. Similarly, the Rohingya people in Rakhine State are not allowed to be treated in government hospitals, and if they insist, the Rakhine police will prevent them from entering the hospital. In fact, the Rohingya are not granted freedom of movement in their own areas, from one city to the next. It was for these reasons that NDPD was established, “Not because we want to become ministers; not because we want to be MPs; No, that’s not our purpose”, Naeem said during the interview (23/4/2014).

As a result, although there are two registered Rohingya parties and a party that has not yet been registered (UNDP) in Myanmar, the two do not clash, but complement one another, because both work in different regions, with the same objective of fighting for the protection and well-being of the Rohingya.⁷ This also includes increasing the role of two seats they currently hold in local (State)

parliament, which was won by NDPD in the 2010 elections for the area that represents the region of Rakhine State. Political activities of the Rohingya group are a manifestation of the belief that the recognition of ethnic Rohingya as citizens can be achieved peacefully through dialogue, while jointly pushing to change the Constitution and laws that exclude the Rohingya from being a recognized ethnicity in Myanmar (Further interview with Abu Tahay in Jakarta, 1st October 2014).

In regard to Aung San Suu Kyi's role in Myanmar politics, Naeem believes that Suu Kyi does not explicitly support or reject the Rohingya struggle. However, the majority of the political elite in her party reject the presence of the Rohingya and believe that the Rohingya are not Myanmar citizens. Suu Kyi has expressed no opinion or statement on the issue. As a result, according to Naeem, NDPD and other Rohingya parties find it difficult to trust Suu Kyi and the NLD in general. On the other hand, the current environment makes it difficult for Suu Kyi to express a firm opinion on the Rohingya issue.

Suu Kyi's silence has also led to doubts among the Rohingya parties of her position, particularly when it appears that she has not kept commitments when the Rohingya face violence or discrimination. According to Naeem, when she decided to become a leader, Suu Kyi had to have the courage to speak the truth, rather than just speak of the rule of law, democracy, and so on, without speaking of the issues experienced by those who have been marginalized, such as the Rohingya. However, the current climate in Myanmar does not allow for non-Rohingya parties to voice support for the Rohingya in the public and political realms because these parties are concerned for their own existence, so the government is using the Rohingya issue as a sensitive religious issue in Myanmar (interview, 23/4/2014).

NDPD focuses its struggle on gaining recognition of the Rohingya as legal citizens, who have lived in Rakhine state since

independence, and even since before British colonization. Based on the experiences of the Rohingya, including the Rohingya political leaders themselves, democracy in Myanmar has not brought any positive effects for the Rohingya, in fact, all consequences have been negative. Democracy has not been able to guarantee the protection of certain minorities in Myanmar, or recognition of all religious and ethnic minority groups such as the Rohingya, including more extensive guarantees of full human rights. Democracy in Myanmar has not accompanied increased protection of human rights for all, particularly the Rohingya. Rather, democracy in Myanmar, for the Rohingya and the political parties which represent their aspirations, can only be described as improving and heading towards positive consolidation when the Rohingya are recognized as citizens with full citizenship rights. If not, democracy in Myanmar cannot achieve its primary objective.

While continuing to fight politically and still planning to register his political party for the 2015 election after having the seats won by his MPs stolen by the government, Abu Tahay has also established an organization called the RRN (Rohingya Resource Network). The RRN is aimed at mobilizing Rohingya resources, both within Myanmar and internationally, to help the Rohingya plight. Currently there is such pressure from the Myanmar government that many Rohingyas are forced to leave the country in order to work (Tahay interview, 22/4/2014). As a result, many have become successful, occupying strategic positions in business, government bodies or academic institutions outside the country. They provide much needed help to the RNN, which then helps the Rohingya who are still living in Myanmar under oppression. “Actually, we don’t have an issue with funding because our network is expansive, with economic and various other networks too. The issue is that we are repressed and have no right to live in Myanmar,” said Tahay (interview, 22/4/2014). Through the RNN, Tahay also campaigns for pluralism and multiculturalism to make the government and society aware of the need to mutually appreciate and value all citizens as part of the

nation. Various parties such as the embassies of developed countries in Myanmar have facilitated Rohingya leaders to meet and talk with moderate monks in other countries in order to exchange ideas and study respect of difference as a nation. “We have a number of moderate monks as friends, who wish to respect all religious and ethnic groups in Myanmar. Yet their voice is not often heard,” Tahay (Interview, 22/4/2014).

Meanwhile, Myo Win, Director of the Smile Education and Development Foundation, who works in the area of education for children, has introduced the students to the Islamic perspective on respecting other people, ethnicities and religions. However, the Rohingya are still being repressed and discriminated against although they are Myanmar citizens. This, Myo says, gives all the more reason to teach children about the plurality and multiculturalism of Myanmar. At the same time, Myo continued, as Myanmar citizens, the Rohingya and Muslims in general have the same rights to be treated as citizens as any other citizen. “We teach them about their rights as citizens”, Myo said, however bitter the current conditions. “We still have the future to make improvements,” Myo Win said optimistically (Interview, 23/4/2014).

Conclusion

Democracy in Myanmar does not yet guarantee equal rights and treatment for all citizens, particularly for the Rohingya, and discrimination against minorities in general continues to occur. The still dominant role of the military in the transitional government makes it increasingly difficult for the Rohingya to fight for equal rights. The religious movement of the Theravada Buddhist majority further strengthens this; with some leaders or monks being deliberately involved in large scale anti-Rohingya campaigns through hate speeches, violence and eviction. After five years of reformation, discrimination towards the Rohingya has not decreased but has rather become more systematic, with a pilot project to remove all Rohingya from Myanmar, which is projected to become

a national program. Even the prominent opposition leader Aung San Suu Kyi, who has been supported by Rohingya politicians since the beginning, has not spoken out in their defense or to protect them. Nevertheless, the conviction of Rohingya leaders as to their status as native citizens and a legitimate part of the Myanmar nation is based on historical evidence and facts, which helps them continue to fight for a future in Myanmar. Their close and deep relationship over a period of time with Aung San Suu Kyi, means that in general they still hold hope, though there is no guarantee as to her stance when she comes to power. It would seem that stronger international and ASEAN involvement is needed to change the Myanmar government policy of discrimination against minorities, particularly the Rohingya, which has been evident since it embraced democracy in 2008.

Endnotes

1. These reports include: Fortify Rights, *Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslim in Myanmar*, (Fortify Rights, February 2014); International Crisis Group, *The Dark Side of Transition: Violence Against Muslim in Myanmar*, (Bergium: International Crisis Group, 2013); Amnesty International, *Myanmar: The Rohingya Minority, Fundamental Rights Denied*, (18 May 2014); Irish Center for Human Rights, *Crimes against Humanity in Western Burma: The Situation of the Rohingyas*, (Irish Center for Human Rights, 2010); The Arakan Project, *Issues to be Raised Concerning the Situation of Stateless Rohingya Children in Myanmar (Burma)*, (Bangkok: The Arakan Project, 2012).
2. Three of the four main informants in this research were political activists and one a social activist focusing on education.
3. The Myanmar government only included seven ethnic groups in Rakhine, namely the Rakhine, Kamein, Kwe Myi, Daingnet, Maragyi, Mro and Thet ethnic groups. The Rohingya who lived in Rakhine were excluded from the 135 groups.
4. U Kyaw Min received 30,997 valid votes or 74 % in the 1990 elections. In the 1990 general election, Rohingya were allowed to vote and

four Rohingya won constituencies in northern Arakan State such as Buthidaung and Maungdaw. In 2008, the Rohingya were allowed to vote in the referendum using the same type of temporary ID cards currently being issued.

5. Burma's new government released 615 of its most high profile political prisoners on January 13, 2012 including prominent student leaders from the 1988 pro-democracy uprising, such as Min Ko Naing and Ko Ko Gyi, Ko Mya Aye, Buddhist monk Ashin Gambiya, Shan leader Khun Tun Oo, former Prime Minister Khin Nyunt and Rohingya MP U Kyaw Min.
6. For comparison, the Union Solidarity and Development Party (military party) won 836 seats (People's Assembly, 220 seats; National Assembly, 123 seats; Local Parliament, 493 seats). Meanwhile, the largest opposition party, the National League for Democracy, won 44 seats (People's Assembly, 37; National Assembly, 5; local parliament, 2).
7. This argument is based on the author's interview with one of the NDPD members in Yangon, Myanmar.

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CHAPTER III

MINORITY STRUGGLES IN HEGEMONIC COUNTRIES: A CASE STUDY OF THE Bangsamoro MUSLIM IN MINDANAO, SOUTH PHILIPPINES

The impression that the Philippines is the most open country among the countries in Southeast Asia, including in providing a place for and negotiating on the rights of minorities and separatist groups, seems undeniable (Eder & McKenna, 2004). Nonetheless, since the signing of the MoA-AD (Memorandum of Agreement on Ancestral Domain) between the GRP (the Government of the Republic of the Philippines) and MILF (Moro Islamic Liberation Front) representing the Bangsamoro Muslim minority in October 2008 was cancelled by the Supreme Court, Mindanao¹ continues to be threatened by the outbreak of violence and war at any time (ICG 2008). The relationship between the two political entities is only maintained by a fairly temporary cease fire; that is, as long as the 'peace talk' is still running. Meanwhile, some people in Mindanao have become impatient as the discussion shows no progress.² On the other hand, it seems that the central government has also not shifted from the status quo, even after changing the President in the general election in May 2010 (Santos, 2010), so an atmosphere of tension and violence has prevailed for over 40 years.³

The reason peace efforts do not run well is because in a democracy, decisions are made by adopting the majority opinion rather than by analyzing the substance of the various arguments. On the other hand, there is also a vast fragmentation within the Bangsamoro; not only are there two factions, the MNLF (Moro National Liberation Front) and the MILF, but competition between these groups also strengthens the traditional leadership or *datu* that is inseparable from central government intervention through political tactics and intrigues. This study traces the peace agreement failures caused by the GRP attitude which tends to be monolithic

over the Bangsamoro, while the Bangsamoro is plural. A number of recommendations are proposed at the end of this paper to explore some possibilities of reaching a peace agreement.

Understanding the Bangsamoro: The Asymmetric Relationship and Fate of the Bangsamoro Minority

Mindanao Island is the largest island in the southern Philippines archipelago, and the second largest island after Luzon, which is located in the north. The smaller islands to the south and southeast of Mindanao (Basilan, Sulu, Tawi-Tawi, and Palawan) are often called the Sulu Archipelago.

Mindanao, in academic and media discourse, is usually understood to include the island groups consisting of Mindanao Island and the Sulu Archipelago, located to the south of located to the south of the other main Philippines regions: Luzon island in the north and Viyasas on the middle. Mindanao consisten of sulltanate, the Sulu Sultanate Archipelago and Magindanao Sultanate in the centre of Mindanao main Island. As whole, Mindanao region covers 38 percent of the entire country of the Philippines, and Muslims accounted for 89 percent of the Mindanao population before the 20th century. However, since the 1980s, the number of Muslims along with their control over the Mindanao region has decreased to between 17 and 20 percent, yet there are still some districts and cities in which Muslims are the majority (Rodil, 2003).

The word 'Moro' was derived from the word 'Moors' and was originally an insulting nickname with connotations of inferiority and barbarianism used by the Spanish invaders. In various literature and political rhetoric, especially government policy until the 1960s, it was still used antagonistically to distinguish between the 'uncivilized' or 'wild' indigenous Muslims and indigenous Lumad people, and the 'civilized' Catholic transmigrants in Mindanao (Rodil, 1994: 24; Fallon n.d.) The title of 'Moro', later became popular with the Bangsamoro, as a signifier of nationalism and a unifying motto for the struggle for independence or autonomy after the emergence

of Mindanao nationalism, first promoted by the MNLF in the late 1960s and spearheaded by Nur Misuari (Jairi, 2007).

Although the Mindanao population consists of many tribes, Rodil (1994) divides it into three categories. The first is the Muslim population that now occupies only about 17 to 20 percent of the land, mainly in Tawi-Tawi, Sulu, Basilan, some parts of Mindanao and some in Palawan. This group is home to the Moro or Bangsamoro (Rodil, 2001: 1). This Islamic group consists of two major groups that often compete socially and politically because they come from different sultanates. The two groups are the Tausug tribe, based in Tawi-Tawi, Sulu and Basilan (known collectively as the Sulu Archipelago) and some islands of Mindanao, and the Maugindanao tribe, who are the majority on the island of Mindanao.

The second category is the Veyasan, who live more as indigenous people and tend to live in hills and in inland areas. They are also called Lumad. They are minorities in a number of areas that are now majority Catholic. They generally maintain tradition but some have become part of Catholic or Islamic traditional life (Ibid.: 2). According to Rodil, their numbers might be less than ten percent of the total population in Mindanao.

The third category is the immigrants and their descendants. They generally came in the 20th century from the northern and central regions of the Philippines through a transmigration program during the American occupation, then their numbers drastically increased with the 1948 transmigration policy soon after independence. Until 1970 they had reached about 70 percent of the population in Mindanao Island and the Sulu Archipelago (Castello, 1999).

The asymmetrical relationship between the Philippines government (GRP) and the Bangsamoro can be traced back to the roots of western (Spanish and American) colonialism, interrupted for several years by the Japanese before independence in 1947. When the Spanish came to the territory now called the Philippines in the mid-16th century the region was occupied by two major religious

groups: Muslims in the South (Mindanao) and adherents of the *aslin* religion or pagans in the central and northern regions. Muslims in Mindanao were in two sultanates, the Sulu Sultanate centered on the island of Sulu in the mid-15th century and the Maguindanao Sultanate centered on the island of Mindanao and established at the end of the 18th century. Spain, which not only brought an economic agenda but also a religious mission, succeeded in converting pagans to Catholicism, but failed to subjugate Muslims in the South. However, when they lost the Spanish-American War, Spain included the area of the two Islamic centers in the transfer of sovereignty to America in the Treaty of Paris in 1898 CE. Since then, the Muslim community in the South has protested the inclusion of Mindanao in the Treaty (Ty, 2008).

When America granted independence to the Philippines in 1947, it also included the territory of Mindanao as part of the territory of the new Philippines. However, before the transfer of sovereignty, Sultan Sulu sent a letter to the President and the American Congress requesting that Mindanao be separated from the surrender of Philippines sovereignty, while the Sulu Sultanate should still be under America's control (Wilson, 2009). Thus, according to MILF senior adviser, Michael Mastura⁴, they aspired to have the same fate as Brunei under the British Empire that was not incorporated into the independence of Malay, and was later established as a sovereign state.

These two main events; the transfer of Spanish sovereignty to the American invaders that supposedly illegally included the sultanates of Sulu and Maguindanano, and the request from the Sultan of Sulu requesting that the sultanate remain under America's control became central to Mindanao Muslim resistance to rule by the GRP (Yegar, 2002). Fallon (n.d.), for instance, wrote:

During the Spanish-American War of 1898, all three competing powers – Aquinald's revolutionary government⁵, the Kingdom of Spain, and the U.S. government – acknowledged that the Moors were not part of the Philippines.

As a colonial power, America was more aggressive in its quest to control Mindanao than Spain. Not only did the United States begin exploiting the vast, sparsely populated areas of Mindanao, but it also brought in many other people (transmigrants) from the north and the center for the purpose of industrialization and agricultural development. They almost all were Catholic. The transmigration policy continued under the GRP on a massive scale and the transmigrants were given title deeds to land that was mostly taken from local Muslims who did not have an official land deed (Wilson, 2009: 13-14). Wilson, for example, writes:

Christian Filipino immigration to Mindanao was encouraged by the government. The GRP wanted immigrants to exploit the agricultural potential Mindanao possessed. As mentioned earlier, Muslims had a different cultural context concerning land ownership. They often could not produce land owning documents because the documents did not exist. Many corrupt Christian Filipinos cheated Muslims out of their natural land (Ibid.: 15)

With the policy of transmigration and land granting, the Muslim population and Lumad people in Mindanao were pushed aside. There are now only a few Muslim-majority provinces and districts or cities. According to Rodil (2003) and Yegar (2002), in addition to the transmigrants given free and spacious land, they are also accommodated to work in industrial centers and agricultural development and, with the advancement of Catholic church education, their children are guaranteed an education. In contrast, Muslim Moro and Lumad are not only pressed for their land but also have difficulty finding work. Moreover, as a form of resistance, most of them refuse to engage with an education system controlled by the Catholic churches. Inequality, poverty and marginalization led to the violence in the region that became intense in the 1970s (Castello, 1999: 34-41). The Mindanao Muslim imbalance can be seen from the very prominent population growth in Mindanao and Sulu in the early 20th century, from only 8.8 percent of the total

population of the Philippines in 1903 to 22.7 percent in 1980 (Ibid.: 32).

According to Wernstedt and Simkins's records (1965), the contribution of the population increased in Mindanao in 1948-1960 was similar to that of migration between 1903 and 1948, that is 700,000 before World War II and 1,250,000 after the war. It is observed that at the same time from before the War to 1950, the National Land Settlement Administration (NLSA) permanently resettled as many as 8,300 families in some Mindanao areas. They were mostly resettled in empty areas. In 1950 another 1,500 families were resettled, and the 1963 NRRA (National Resettlement and Rehabilitation Administration) resettled 500,000 workers (Ibid.: 92-93). The consequence was the takeover of local people's land, both Muslim and Lumad, on a large scale, legal or illegal.

Indigenous people in Mindanao, both Muslim and Lumad, who are still traditional in land ownership patterns, were not aware of the massive legal transfer of property, and many of the transfers were illegally assisted by corrupt Catholic bureaucrats. The mass transfer of land ownership was carried out so quickly that the indigenous Muslims and Lumad were not aware that they could record their prior ownership.

Rodil writes:

In the end, after more than three centuries of relative freedom and stability during the Spanish period, many indigenous communities found themselves, in less than half a century of American rule and in an even shorter period of the Philippines Republic, rapidly displaced and permanently dispossed – legally! Although the 1987 Charter claims to uphold and protect ancestral lands, Congress had yet to pass an enabling act to put the Constitutional intention into effect. The last Congress failed to approve the Senate and House bills on ancestral lands. (Rodil, 1994: 31)

However, the ongoing upheaval made the GRP also adopt a positive post-independence strategy through increased

development, education and political accommodation. In the 1950s the government provided scholarships to a number of school-age youth who showed potential for leadership and educational training in schools and colleges in Manila and abroad, especially in Muslim countries. Members of the elite have also been recruited to national politics to become senators and congress members (Yegar, 2002).

On the other hand, the large-scale sustained transmigration and land acquisition removes the indigenous ownership of Moro society. Consequently, not only impoverishment and minoritization occur, but also the tension, prejudice and violence continue to occur. In fact, the ethical political policy of the GRP toward the Muslim Moro population raised awareness among educated young Muslims of Mindanao about the unfairness, discrimination and distinctive cultural property threatened by political, cultural, economic, and religious hegemony from outsiders.

In the 1960s, there was a kind of educated youth movement that began to see the reality of inequality in its territory and was also influenced by the civil rights movements in other parts of the world. The awakening independence movement grew on campuses, both domestically and abroad. One of the most phenomenal was a group of students under the leadership of Nur Misuari at the University of Philippines in Manila, which later became the MNLF. Local resistance also happened in the South. Although the resistance is sporadic, inevitably it leads to widespread awareness in the general population about the need for independence to combat cultural, religious, economic and political alienation and marginalization. Student leadership is so prominent within the grassroots movement that it has become a force that threatens the central government.

At the height of awareness about independence demands, the case of the Jabidah Massacre was revealed. That was the mass killing of 28 young all-Muslim military candidates but under the Christian Officer of the Special Unit in March 1968. They were executed simultaneously at a Jabidah military training camp for refusing orders to attack Sabah. The youths were indeed recruited and trained in a

special military unit for the occupation of Sabah and Sarawak for government plans. Ferdinand Marcos attacked and seized Sabah (a British colony) claimed to be part of the Philippines because historically it was part of the Sulu Sultanate.⁶ However, after the training, they refused to attack Sabah because they thought it meant fighting their fellow Muslims and they had a closer relationship with them than with people living in the northern part of the Philippines, even with people in the South who were Catholic transmigrants. One of the military candidates who refused to obey orders escaped the massacre and from him the massacre became known (Yegar, 2002).

The significant reaction to the Jabidah Massacre both in the South and amongst students in Manila and abroad marked the birth of the MNLF resistance organization in 1971 under the leadership of Nur Misuari, a professor of Islamic Studies at the University of the Philippines. In response, President Ferdinand Marcos enacted martial law in 1972, marking the peak of unprecedented south-central damage by the central government. According to Rodil, the military forces sent to the South massacred the Muslim community indiscriminately. The military incursions were carried out not only against the MNLF and the BAF (Bangsamoro Armed Forces) of MNLF but against militias, civil society and even places of Islamic education (*madrassa*) and mosques. The 1971 election marked the height of violence because of ambitions of Catholic politicians in Mindanao and transmigrant populations to control as much territory as possible. The physical conflict between Muslim and Christian groups occurred massively at that time (Rodil, 1994). Rising resistance prompted local governments to secretly form civilian forces armed with anti-Muslim Christian sentiments to attack Muslims. These forces were called *Ilaga*. Many Muslims became victims of murder in this *Ilaga* action (Ibid.). Of the series of events that triggered the birth of the Bangsamoro nationalism, which later formed MNLF demanding independence the historian Buendia, wrote: “(...) Political events that transpired in the 1960s

until early 1970s triggered the re-invention of Muslim identity.” (Benda, 2008: 3)

The Bangsamoro Hegemonic Contra: Transformation to Essential Demand

Massive support from the Bangsamoro after its establishment in 1971 made the MNLF's position stronger. The support came in addition to the wider community in Mindanao and Sulu, as well as pre-established insurgent groups such as the MIM (Muslim Independence Movement) as well as the Moro student movements in Manila and abroad. Nur Misuari, as the charismatic MNLF leader, was also accepted by the international community as Bangsamoro's Muslim representative. Independence demands after the Jabidah Massacre and Ilaga violence prompted the rise of the resistance movement. Many Bangsamoro volunteered to join the armed forces of MNLF or BAF to fight against the Philippines army. Not only men but also women volunteered, especially in supplies, logistics and in public kitchens to serve the armies (Jairi, 2007). At that time, the MNLF had armies of the Bangsamoro Armed Forces, the member of MNLF military wing, at least 20,000 - 30,000 armies.

The harsh response of President Ferdinand Marcos was to impose martial law in 1972 which killed at least 100,000 soldiers and civilians on both sides. The violence attracted international attention, especially from the OIC (Organisation of Islamic Conference) led by the President of Libya, Moammar Khadafy (Lingga, 2007). The OIC through Khadafy was quite intense in facilitating peace efforts between the MNLF as the representative of the Bangsamoro and the GRP leading to the Tripoli PA (Peace Agreement) in 1976. The Tripoli PA mentioned areas that would be part of the Bangsamoro Autonomous Region: 13 provinces of 25 provinces in Mindanao and the Sulu Archipelago. In addition, there was also an accommodation for combatant member of the BMF into the Armed Force of the Philippines and Philippine Police forces. In the process of discussions leading to the Tripoli PA, the

MNLF had altered their demands from independence or secession to autonomy under the United Republic of the Philippines. The change of demands later became one of the reasons that provoked MNLF Deputy Leader, Hashim Salamat, to disagree and argue with Nur Misuari's leadership. For many other reasons, amongst them the allegations that Nur Misuari was a communist and nationalist and un-Islamic, Hashim Salamat ultimately separated from Misuari's leadership and established a separate resistance organization believed to have recruited more than half the MNLF supporters, including some armed forces that merged into the MILF. In 1983, the MILF was officially declared and stated its political and armed resistance with demands for independence. At the same time, the talks on the realization of the Tripoli PA between the MNLF and the GRP continued.

Nonetheless, before the Tripoli PA in 1976 could be implemented, Marcos took unilateral action by enacting predetermined new policy a year before concerning territory division which disrupted MNLF territory claims within the peace agreement discussion. In the new division of the territory by Marcos, Mindanao was divided into two autonomous regions: IX (Central Mindanao) and XII (Sulu) (Brillants, 2005). Marcos also requested a plebiscite to determine whether a province or towns and counties would participate in the autonomous region in the PA or in Marcos's division of regions. The MNLF rejected Marcos' unilateral action resulting in tension as he was deemed to have violated the Tripoli PA agreement in 1976. Both the MNLF and the MILF boycotted the imposed plebiscite (Abubakar, 2000). At the same time, Marcos was politically aligned with local traditional leaders in the South, known as *datu*, who have strong cultural roots in Mindanao but tend to be excluded from the educated popular leadership based on modern capabilities in the MNLF and MILF. In the 1970s the *datu*s generally joined the MNLF movement, yet later partially shifted with Marcos's political games (Abinales, 2000).

As dissatisfaction occurred, both shown from the growing strength of the MILF and the MNLF's dissatisfaction towards the policy, there was a change of national leadership from Marcos to Corazon Aquino through the 'People Power' movement of 1986. As soon as she became president, Aquino apparently tried to convince the Bangsamoro of the central government's goodwill to resolve the tension and violence in the South. This was pointed out by Aquino when she met Misuari in the city of Jolo, capital of Sulu province, the base of the MNLF, months after being sworn in as President. She wanted to have direct contact with him, even though it was prevented by the defense minister at the time because it was considered dangerous for her. Aquino herself seemed to assume that the formula of the Tripoli PA was still relevant and remained the basis for building peace with her government, while ignoring the MILF's demand for independence. Aquino developed the formula by translating the PA into the law; the Organic Act on Autonomy for Muslim Mindanao was incorporated into the 1987 Constitution under the name of ARMM (Autonomous Region of Muslim Mindanao). However, in the discussion of the Act, parliament added a clause about the plebiscite requirements in the ARMM formation. Once again, the MNLF rejected the requirement because it was considered to deviate from the Tripoli PA. Nevertheless, the plebiscite was imposed on 19 November 1989.

The MNLF under the leadership of Nur Misuari and also the MILF called for a boycott. The result was very disappointing for the MNLF; of the 13 provinces that had been slated to become autonomous, only four – Tawi-Tawi, Sulu, Maguindanao and Lanao de Sure – declared their intention to join the ARMM. None of the nine cities chose to join. Even the city of Marawi, the provincial capital of Lanao De Sure, Cotabato the capital of Maguindanao, and also the large island of Basilan which at that time was part of Sulu (they are now separate provinces) did not vote to join the autonomous region (Abubakar, 2000: 126-127). Treaty implementation according MNLF was considered unfair; in addition to provoking th MNLF,

it also triggered greater resistance by the MILF. It was triggered for tensions and violence again.

President Fidel Ramos, who succeeded Aquino in 1993, attempted to restart a discussion with the MNLF. He promised to return the territory within the Tripoli PA by including the most important clause in the FPA (Final Peace Agreement) signed in Jakarta on 2 September 1996, which was “The final peace agreement constitutes the full implementation of the Tripoli Agreement” (Abubakar, 2000). By referring to that clause, the MNLF assumed that the agreement would return to the original Tripoli PA’s implementation concerning ARMM coverage; that is 13 provinces and nine cities, although gradually (Ibid.: 127). The treaty also mentioned the establishment of a transitional institution, SZOPAD (Special Zone of Peace and Development), covering the area claimed by the MNLF in the Tripoli PA. Two institutions were also established to facilitate the strengthening of SZOPAD; SPCPD (Southern Philippines Council for Peace and Development) and a consultative assembly. They were given three years to strengthen the areas before regional political autonomy with greater power and wider area than the existing coverage of the ARMM (Ibid.).

However, shortly after the agreement, it faced major challenges both from the central government and locals in Mindanao. Firstly, the budget proposed by ARMM and SPCPD was reduced significantly by the central government such that it was merely sufficient for the operational needs without development funds. Some argue that the budget cut was due to the economic crisis that hit Asia in 1997–1998, while others, including Nur Misuari (interview, 25/02/10), argue that it was a deliberate attempt to thwart the MNLF program in the ARMM.

The second challenge was opposition to the SPCPD receiving a large budget. This came mainly from Catholics in the South, both the public and their congressional representatives in Manila, as well as Congress member votes from outside Mindanao. Abubakar concluded that the implementation of the treaty is highly dependent on the center; in this case, on the presidential office, in which the

President also depends on the parliamentary majority vote and the President's own political position. (Ibid.: 140)

Thirdly, criticism flowed from catholic communities feel that the plan was not sufficiently socialized to the *grassroots* level. Thus, non-MNLF and non-Muslim communities felt uninvolved and had no sense of belonging to the program. People who did not agree with the implementation of the FPA took advantage of this situation to hinder its success and build opposition in the community, especially among villagers by encouraging them to believe that it did not have any benefit for them (Concepcion et al. 2003: 12-13).

From here, various accusations began to emerge regarding Nur Misuari, who was accused of prioritizing his closest MNLF friends in recruiting former combatants and Tausug ethnic group members within the MNLF, and ignoring the non-Muslim, Catholic and Lumad, and also parts of Mindanao which, in fact, is the majority of supporters and the center of the MILF (Bertrand, 2000: 37-54). The inflated expectations of the clause: "...the full implementation of the Tripoli Agreement" in the FPA has invited Nur Misuari to return in order to lead the implementation by the electing him as the Governor of ARMM, immediately demoralized. Actually, some close people of Nur Misuari believe that electing him as the Governor of ARMM is considered controversial because the previous two ARMM elections boycotted Nur Misuari, because there is a great opportunity for the return of range area of the ARMM region in Tripoli PA 1976. Others were pessimistic from the very beginning and believed that Nur Misuari was caught in a central government trap because the plan would be so difficult to implement. Yet others believe that, at that time, there was no other choice for Nur Misuari to maintain his leadership in MNLF since he had lost almost all of his political resources. Most of the loyal supporters and troops of the Bangsamoro autonomy agenda had shifted to the MILF and some others, especially the former combatants and the Bangsamoro Armed Force, had been accommodated into the Armed Force of the Philippines and the Philippine National Police since the time

when Marcos is not willing to go back to MNLF⁷. However, Misuari is still optimistic that the essence of the initial MNLF demands will be realized one day and would say at the same time that if it failed, Bangsamoro would have the right to make a movement just like in the past, to demand independence⁸.

Meanwhile, the victory of Joseph Estrada in May 1998 replacing Fidel Ramos lead the Philippines to an all-out war strategy against Mindanao, especially the MILF. Along with his victory, the Estrada Party increased its seats in Congress, which, of course, supported his policies. Triggered by a takeover incident of a town hall in Mindanao by the MILF. He even bombardier the base and command center of MILF Camp Abu Bakar in the remote area of Cobato City and various BIAF (Bangsamoro Islamic Amred Forces) camps, the wing of military MILF. The army sent by Estrada also bombarded civil society, Islamic schools and mosques. Some argue that it was done because of Estrada and his party's point of view towards Mindanao as well as his declining popularity in the eyes of the people and the army that he felt the need to improve his image in the eyes of the people and to give compensation to the army (Concepcion et al. 2003: 10-12). Estrada also interfered with the ARMM by replacing MNLF people from its administration with non-MNLF people, especially people from the central government (Concepcion et al. 2000: 13-14) fortunately, although Estrada's policy had claimed a lot of victims, it was unsuccessful because 'People Power II' undermined the former movie star's presidency for alleged corruption scandals and his deputy, Gloria Macapagal-Arroyo replaced him as President in 2001. At the same time, the ARMM election day took place, and due to dissatisfaction with Nur Misuari's performance, Arroyo's central government planned to nominate another candidate for the post of Governor of ARMM. The removal of MNLF people since Estrada's presidency and Arroyo's intention to suggest another candidate for the Governor of ARMM, frustrated both the MNLF and Misuari groups. The

situation prompted Misuari to engage in an insurrectionary action which led him to prison.

Underpinned by the conflict with Estrada, Arroyo proposed the opposite strategy of all-out peace over Mindanao. Arroyo immediately set up a special institution to hold talks and rearrange the program for ARMM and rerun the plebiscite in other areas of ARMM which created the new province of Basilan, except the Capital of Isabela and Marawi and the capital of Lanao de Sure, to enter into ARMM as a new territory. Nur Misuari's failure was both because of the budgetary difficulties discussed above and weak administration, which caused ARMM in the next period to be overshadowed by the patronage of the central government. Since then, the MNLF has almost completely fallen under the patronage of the central government (Werning & Kreuzer, 2007). On the other hand, Arroyo also tried to restore Bangsamoro's confidence by conducting preliminary talks with the MILF for the first time after Estrada's all-out war policy. The talks once again facilitated by Tripoli in 2001, which resulted in a ceasefire agreement and the peace talks of the GRP-MILF, although her journey was interrupted by the heightened violence and clashes between the two sides in 2003. The decisions of the peace talks included security, redevelopment of conflict-affected areas damaged by Estrada's policies as well as ancestral domains. One of the most important items of the talks was the ancestral domain which later became one of the main subjects of the subsequent peace agreement, which was then called MOA-AD (Memorandum of Agreement on Ancestral Domain). Therefore, the GRP officially acknowledged the existence of the MILF was estimated to have BIAF armed forces of 12,000 people spread throughout various camps and amongst the general public. Commenting on the serious attempts by presidents at the beginning of their terms (except Estrada) to build trust and forge agreements with the Bangsamoro, Abhoud Lingga, the Director of the Institute of Bangsamoro Studies as well as a Senior MILF

Advisor, stated that it was because they are weak in the beginning of their government. Later, he added, they would forget and even renege after they became well-established and would only listen to what the majority said (Interview, 14/02/10).

Transformation towards Essential Settlement: The GRP Monolith and Bangsamoro Fragmentation as Obstacles

The year 2008 was a crucial year for many things in the Philippines. One of the most important concerns of the MILF-GRP negotiations was the signing of the MOA-AD. Aspects of the GRP-MILF Tripoli peace talks of 2000 which had been running for 3.5 years since the topic was discussed and almost 12 years calculated from the start of MILF-GRP talks since 1997, were nearing an end. This, for example, is marked by the approval of status and area within the MOA-AD draft by the Panel Team from both parties with the so-called Bangsamoro Juridical Entity (BJE), which covers the existing ARMM areas and added by other areas covering not less than 712 *barangays* (villages), although the scope of the territory had to be decided by a plebiscite. The signing plan was announced by president Gloria Macapagal-Arroyo in early August and was to be signed on 5 August 2008 (Hicken, 2009: 193-195). The additional 712 *barangays* are in the provinces of South Cotabato, Palawan, Zamboanga City, Sultan Kudarat, North Cotabato, Lanao, and Zamboanga de Sure. The treaty draft declares Bangsamoro Homeland as an autonomous area with strong legal oversight of the police, internal security forces and special education. The legal basis also grants BJE the right to establish its own institutions related to banking and financial systems and other political institutions. It also grants full authority to manage natural resources within the territory of BJE with a 75 percent share for BJE and 25 percent for the central government. In the next 25 years, the region would have full control over the territory except “for foreign affairs, defense, and the printing of money” (Hicken, 2009; Tuminez, 2007: 85) the draft also stated that in the next 25 years, the GRP relationship with BJE

would be described as “associative (and) characterized by shared authority and responsibility” (Williams, 2000: 124).

However, the draft soon drew criticism and protests, especially from politicians from the predominantly Catholic region of Mindanao who would be affected by the BJE outside the ARMM area, both in the public of Mindanao as well as Senators and Congress members in Manila. The criticism alleged that the government submitted to separatist demands which would damage the territorial integrity to be independent. Since intended to sign was not formally announced by President Arroyo, in mid-July 2008, there was a reaction to the content of the MOA-AD / BJE outside the ARMM region. The strong reaction, especially from a man who had been governor of North Cotabato, Emmanuel Pinol, who demanded that the draft had to be published before it was signed. A day later, the same provincial parliament passed a resolution to support Pinol’s demand and proposed a petition to the Supreme Court in Manila. A few days later, the petition was brought to the Supreme Court to grant two demands: (1) the Supreme Court must forbid the government from signing the MOA-AD and (2) the detailed contents of the agreement or BJE must be made public. Subsequently, the rulers of regions which would potentially be exposed for BJE expansion were mobilized. Supports also came from leading senator Manuel Roxas (Ibid.: 125).

The mobilization was actually motivated by suspicion and prejudice about Islam in Mindanao. After the 9/11 attacks in New York, Mindanao became one of the greatest targets of US President George W Bush’s counterterrorist program for Southeast Asia because media publicity and research linked it to the JI (Jemaah Islamiyah) terrorist network. Pinol, for example, is quoted as saying that the 75-25 division of the income from exploiting natural resources within the Mindanao Homeland in the MOA-AD would jeopardize peace in Mindanao because it would provide more funds for arms purchases for the MILF. He stated that:

Nobody can deny that the MILF, for some time, was connected with the JI (Jemaah Islamiyah) the Al-Qaida. What are our fears? With the vast resources that they will get from their share of natural resource, i.e. oil, gas, whatever, they could buy arms. What's going to happen to us?⁹

The mobilization of the opposition to the signing of the MOA-AD and the insistence on the Supreme Court prohibiting it continued and increased until the day before the signing date. On the same day, 4 August 2008, the Supreme Court issued a deferment rule which banned the government from signing the MOA-AD draft and requiring the government to publish the contents of the MOA-AD to the public in detail by 15 August that year (Hicken 2009). The day after the deadline for the publication of the MOA-AD on 15 August, Arroyo's government announced that it no longer wished to sign the MOA-AD and decided to limit the tasks of the panel teams and even if they signed it, the government would not implement it (Williams, 2010: 127). Violence broke out in some areas although the MILF still seemed to wait for the next phase by refraining from mobilizing further demonstrations (Ibid.: 128-129).

Nevertheless, mobilization and demonstrations against the signing of the MOA-AD continued until mid-October. On 14 October 2008, the Supreme Court actually issued a decree that the MOA-AD draft was declared as 'contrary to law and the Constitution' and, therefore, it must be aborted (Ibid.: 122-123)¹⁰. The Supreme Court gave three reasons: 1) there was not enough consultation during the MOA-AD process with the communities which would be affected by the agreement, so it violated their rights to obtain information; 2) there was no guarantee that the consequences of the contents of the agreement would be impact for constitutional amendments; and 3) the fulfilment of the nature of relationships used the words '*associative (and) characterized by shared authority and responsibility*' which is commonly used in colonial state agreements for independence (Ibid.: 126-127).

The MOA-AD is not really a final agreement or a complete peace agreement, but it is a fundamental stage in a series of MILF-GRP peace agreements with the Bangsamoro in Mindanao. In the draft, for example, it is asserted that “the legitimate grievances of the Bangsamoro people arising from any unjust dispossession of their territorial and proprietary rights, customary land tenures, or their marginalization” (Ibid.: 123). Thus, in the draft, there is a recognition of past oppression on one party and rehabilitation efforts which underlie the draft for the other party. In fact, the draft had been anticipated based on an uncomfortable experience over previous peace agreements and the MNLF-GRP FPA which was challenged by Congress and the Catholic community in Mindanao.

Therefore, the draft does not include any requirement of constitutional amendment by emphasizing the side of minority rights which are guaranteed by international law and has been ratified by law in the Philippines by using the concept of ancestral domain. The same constitutional law on ancestral domains has been legally passed over indigenous people and Lumad in the Philippines (Tuminez, 2007). Unlike the MNLF which had negotiated peace agreements which emphasized political autonomy, the MILF emphasizes direct autonomy itself (Mastura, Interview 05/02/2010). Thus, from the side of MILF, the official negotiations in Tripoli since 2001 had been a tremendous transformation from the strategy of armed resistance and previous demands for freedom to the path of peace negotiations and autonomy or self-determination over the ancestral domain. In an interview with Jiji Press Japan media in February 1999 after a delayed meeting with President Estrada, Hashim Salamat as the MILF Chairman still confirmed that, for the MILF, “there is no way for them (Bangsamoro) to solve the problem except independence. So, if we all die, our ideas will never die” (Salamat, 2004). However, when a peace agreement was achieved in Tripoli 2001 demands had changed to a form of self-determination over ancestral domain to become part of the GRP union state. In other words, MILF abandoned the demand for independence.

However, Haji Murad Ibrahim (Interview, 10/02/10), the supreme leader of MILF and the former Supreme Commander of the armed forces of the BIAF who replaced Hashim Salamat after he passed away, said that the MILF actually has abandoned the demands of independence by proposing the demands for autonomy of ancestral domain. However, he added, this is the most realistic phase and there will be no change. He also added that the demands of the domain's ancestral autonomy were in the form of self-government which covered the sea, the air, and the land with all its contents, as well as larger tax allocations than the central government. "There will be no change towards the reformists than that," Ibrahim Murod said (Interview).

The content of the MOA-AD draft, according to Rudy B. Rodil (Interview, 16/02/10), a former GRP member of the panel in the MNLF-GRP negotiations and the Lumad person who a professor expertise on Lumad, is very fair, considering the marginalized Bangsamoro and its marginalized history. According to him, the fate of Muslim Mindanao or Bangsamoro is parallel to the Lumad or indigenous people as a minority and the history of suffering from underdevelopment now. Because of that, they deserve what they have as the constitutional law on the ancestral domain of Lumad and indigenous people. "MOA-AD is part of their worthy demands" said Abhoud Lingga, a senior MILF adviser and director of the Institute for Bangsamoro Studies. He points out that Bangsamoro's self-determination rights are qualified under various UN provisions which covers "common historical tradition; racial or ethnic identity; cultural homogeneity; linguistic unity; religious or ideological affinity; territorial connection; and common economic life". Further, he asserts that self-determination for the Bangsamoro "is the realization of their collective right to freely determine their political status vis-a-vis the Republic of the Philippines" (Lingga, 2007: 14). Thus, the demands of Bangsamoro are based on international law which is protected by the UN (Lingga, interview 12/02/10).

Above all, Timothy Williams, for example, concludes that beyond the question of the legal and constitutional debates and mass mobilization which are a form of opposition to the MOA-AD plan, there is actually a structural problem behind it, which is the status quo effort for the perpetrators and owners of power, control of territories as well as natural resources within it (Williams, 2009: 256). President Arroyo herself, according to Williams, seems to have her own agenda in carrying out peace with the MILF, and immediately withdraws when she sees the harsh reaction of the rulers of the South. According to Santos, what the Supreme Court did in rejecting the MOA-AD as 'contrary to law and the Constitution' indicated that it only listened to one party which rejected it and had mass mobilization from them, and ignored other advice from neutral parties such as civil society (Ibid.: 275)³. The reason for the absence of constitutional guarantees to support the MOA-AD by the Supreme Court, according to Santos, is irrelevant and unnecessary if it is not possible to achieve peace, since in every post-violence and war negotiation 'out of the box' thinking is needed which is not only based on the structure of national law and even the Constitution in order to achieve peace.

Santos, who claims to represent the conscience of lawyers and legal practitioners as well as judges, also shows detailed data that adequate consultation about the MOA-AD had been undertaken in areas which were protested by the Panel Team of the Government. "The Six Paths to Peace," according to him, was the consensus-building and empowerment for peace¹¹. "Such local consultations, among any others, were conducted by the GRP Peace Panel because there also in line with the comprehensive peace process, particularly the second of 'The Six Paths to Peace,' namely consensus-building and empowerment for peace." (Santos, 2009: 275) However, Santos continues, "At the same time, the Panel had to respect the inherently confidential rules of the peace negotiations. This is in fact that an indication of requisite discreteness in negotiation rather than grave abuse of discretion" (Ibid.: 275).

Is there any future of peace for Bangsamoro?

In conclusion, Timothy Williams (2010) states that:

As the year 2008 showed, the peace panels are able to reach agreements that are on the whole mutually acceptable, however, small groups in their constituencies will never be happy with any agreement –while the Christian settlers will not move away from the status quo, some MILF commanders will not accept anything less than independence. (p.140)

Meanwhile, a presidential secretary for peace of Mindanao or OPAPP (Office of the Presidential Adviser on the Peace Process) and a member of the GRP panel who requested anonymity (Interview, 12/02/2010) said that the fragmentation within Bangsamoro itself makes it difficult for the central government to communicate and determine which groups the government should communicate with. However, even if the central government has good intentions to pay attention to the problems of the Bangsamoro regarding democratic procedures, the government still has to ask for congressional opinion and issue on changing of the Constitution. While in reality, he continued, most Filipinos are reflected through Congress as well as the Supreme Court, as holders of the Constitution and the laws of Philippines have refused to implement MOA-AD. Another Muslim OPAPP member originating from Sulu (Interview, 24/03/2010) stated that, in fact, the GRP is still in the process of carrying out peace talks with the MNLF in order to implement the 1996 FPA, but will never return to the 1976 Tripoli Peace Agreement, while continuing to carry out peace talk with the MILF. However, he complained about the role of the OIC which only works on the political level but is reluctant to provide both physical and non-physical infrastructure in the implementation and also in humanitarian action due to the conflict. Meanwhile, he continued, the OIC continued to politically push to enter into a peace agreement and to grant rights for the Bangsamoro, but the decision always returns the financing to the

Philippines government in its implementation, and it often costs too much. In addition, for humanitarian aid and development, he admits that most of it is obtained from western countries. Furthermore, it seems that both Ibrahim Murod and Nur Misuari believe that violence and assault are difficult to avoid if there is no progress in realizing the agreement in accordance with the demands of the Bangsamoro and not in the portion of the central government. Nevertheless, they want to achieve peace, the sooner the better and they are willing to compromise except on matters of principal. The fact that they have transformed demands from independence to autonomy and ancestral domains is the most possible point for achieving peace. On the other hand, as Williams pointed out above, the central government at least represented by the panel team has reached a very advanced understanding in the MOA-AD draft regarding ancestral domain, beyond the Manila government put that peace as a solution. The problem is how to make decisions about the progress achieved?

The opinion of Father Mercedo (Interview, 02/02/10), a former member of the GRP peace talk panel in negotiations with MNLF who continues to promote peace. He said that a paradigm shift is needed in finding a peace point between the Bangsamoro and the GRP. The GRP and Filipinos must regard ancestral domain as the rights of the Bangsamoro based on real history, but the Bangsamoro must also respect the existence of the unity of the Republic of the Philippines as a sovereign state. Apparently, Mercedo's view on the 'shifting paradigm' is actually legitimizing the content of the MOA-AD draft which the peace panel has achieved, and which the Supreme Court rejected. Then the new paradigm offered by Mercedo seems to have to be placed deeper than political negotiations and power sharing in a peace treaty. As Kymlicka says, in situations of hegemonic state which have an asymmetric relation to minorities in an international context, the minority rights "are not just a matter of discretionary policies or pragmatic compromises but rather are a matter of fundamental justice. The paradigm shift is also demanded

in the global phenomenon of giving minority rights as ‘basic rights’” (Kymlicka et al. 2001: 4). The shifting paradigm is also demanded in global phenomena regarding granting rights for the minorities as basic rights according to the UN and in international law (Kymlicka 2008; Ringelheim, 2010). Peleg, for example, proposes that the need for a paradigm shift from the doctrine of individual rights to collective rights or what Santos calls ‘out of the box’ thinking (Santos, 2009: 276). Peleg writes that “although individual-based democracy is altogether a very attractive regime, it does not respond to the needs of all ethnic groups within the deeply divided society” (Peleg, 2007: 92).

In this perspective, the achievement of an agreement such as the MOA-AD, should not be placed in the normal political process as it applies in a democracy based on individual rights like in the present Philippines, but it should be a matter of necessity for the state and the majorities to give a place for the minorities considering the historical, political, social and economic gaps between them and the majorities. In other words, such an agreement needs to be a kind of affirmative action or positive discrimination for particular minorities (Ibid.: 92-104; Kymlicka, 1995: 45-50)⁴, which in this case are the Bangsamoro. The achievement of peace depends on the will and the confidence of the ruling central government to convince the majority of the population and the political majority. There is, of course, a great opportunity to counter the efforts of power brokers at the center to split Bangsamoro’s aspirations as well as the mighty efforts of stakeholders in Mindanao to maintain the status quo in the absence of productive dialogue and common platforms. It is important that Catholics, politicians and religious leaders, as representatives of the new majorities in Mindanao as well as in the nation, are also involved in the talks. All factions within the Bangsamoro have equal opportunities to be accommodated formally depend on different interest associations and to be formalized in the existing political institutions such as the local parliament in the ARMM or in areas agreed upon as an ancestral domain based on

the right of natural resource management and self-determination, within the scope of the Philippines nation state.

The case of the Peace Memorandum of Understanding in Aceh, a province with a long history of conflict in Indonesia, in which a plural local political party was established and accommodated in an action of parliament under the national law, could provide a prospect in that direction, without denying the fact that Aceh is very different in almost every way to Mindanao or Bangsamoro. Thus, it is not impossible for the Philippines to once again become a country in Southeast Asia which is capable of showing its pioneering openness to the development of a new paradigm, borrowing the term of Cham Gains, as a cultural nationalist. According to Gains, a cultural nationalist recognizes cultural differences as separate identities within the territorial sphere and it becomes part of the national identity. A minority group with a history and specificity may have its own expression and recognizes the differences as the part of national identity, including in the management of natural resources and governance within the national state.

Endnotes

1. This territory covers Mindanao Island and Sulu Archipelago, yet in a number of literature and academic discourse, it is frequently only called Mindanao or Bangsamoro or South Philippines in which Muslims call themselves as the Bangsamoro or Moro Muslim. In this study, all of the three names are used in turn between Mindanao, Bangsamoro and South Philippines.
2. An NGO, Mindanao Peoples Caucus, in December 2010, advised Bangsamoro to be patient in relation to the withdrawal demands of MILF from the negotiations due to the ongoing process of GRP-MILF peace talk since the MoA-AD was cancelled by the Supreme Court on 14 October 2008. http://mpc.org.ph/index.php?option=com_content&view=article&id=104:mpc-statement-resume-the-talks-

immediately-andunconditionally&catid=52:statements&Itemid=86.
(viewed 23/12/10)

3. Some authors and Bangsamoro warriors argue that the current struggle of the Bangsamoro is the continuation of the independence struggle that lasted for 300 years from Spanish invasion until the end of the 19th century and subsequent fighting against America. Therefore, according to them, the conflict has lasted for four centuries. See, for instance, Salah Jubir, 2009, *Bangsamoro: A Nation under Endless Tyranny* (Updated and Expanded Edition), Kuala Lumpur, IQ Marin SDN BHD.
4. Professor Michael Mastura is a senior adviser in MILF and a Peace Talk Panelist from MILF side in a series of peace negotiations with the GRP. Interviewed on 05 February 2010.
5. Aquinaldo is a leader of independence warrior at the end of 19th, utilizing the war crisis of Spain-America, proclaimed the independence of the Philippines in 1898, yet was rejected and conquered by American invaders.
6. Nur Misuari also claimed that Sabah becomes a part of Sulu Sultanate which holds lease status by Malaysia (Interviewed in 25/02/10).
7. Some of the combatants and the volunteers which were included in the AFP (Armed Forces of the Philippines) and the central government police were distributed to various units and regions so that the MNLF and Nur Misuari had lost access to them.
8. Interview 25/02/10. At the time of the authors interviewing, Misuari has just signed an agreement with GRP which is the next phase of the FPA agreement on strengthening MNLF with funds provided by the central government, which is also shown to the author by an OPPAP member (the Office of Presidential Adviser on Peace Process) Interview, 24/03/10).
9. A transcript of an open dialog published by Institute for Autonomy and Governance, Autonomy and Peace Review: A Quarterly Publication of the Institute for Autonomy and Governance, Vol. 4 No. 3, July - September 2008, pp. 32-33.
10. Williams, The MoA-AD Debacle, page 122-123. Soleman M. Santos Jr., 2009, "A Critical View of The Supreme Court Decision on the MOA-AD from the Perspective of the Mindanao Peace Process," Philippine Journal, Vol.84, No.1, September 2009, pp. 225-3099, page 155-156.
11. Santos, A Critical View of The Supreme Court Decision, page 259-266. Williams, The MoA-AD Debacle, page 132-133.

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CHAPTER IV

THE MUSLIM MINORITY MOVEMENT IN SOUTH THAILAND: FROM THE PERIPHERY TO THE CENTRE

Introduction

The Muslim minority in South Thailand¹ seems to have missed out on the significant changes that accompanied the fall of communism at the end of the 1980s and the beginning of the 1990s. Muslim minorities in the Balkans and Eastern Europe, for instance, experienced quite drastic change, some becoming independent nation-states, and if not, at least gaining self-determination and self-governance, or equal rights as minorities under the United Nations Declaration in the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (Poulton & Taji-Farouki, 1997; Eminov, 1997). The Muslim minority in South Thailand, which has experienced similar repression though not under a communist government, has yet to experience the kind of recognition that Poulton has described as global awareness emerged of the fate of Muslim minorities accompanying the fall of communism. Poulton (2000: 60) writes:

In the late 1980s with the ending of the Cold War and the collapse of the Soviet Bloc, minority rights once again came on the human rights agenda. Since then the international community had moved towards standardization and codification of minority rights, leading to the U.N. Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the U.N. General Assembly Resolution 47/135 of 18 December 1992, and the Council of Europe's Framework Convention for the Protection of National Minorities: First legally binding international instrument devoted to the plight of minorities.

Though this may be the case, it is not true that insurgency, separatism, and violence are the main choice for the majority of Malay-Muslim activists and residents in South Thailand when it comes to demanding justice and the eradication of discrimination. They have a long history of repression. Forbidden from speaking and studying their Malay-Muslim language, their culture and history in schools or at work, today, some 60,000 soldiers are posted at various check points and military posts – most of which are in the yards of Buddhist temples – throughout three provinces whose combined population is less than three million people.

After the 2004 violence, the majority of Muslims have clearly shifted towards the center from what was previously a rather peripheral attitude. They have indeed not lessened their demands for justice, the eradication of discrimination, the revival of Malay-Muslim traditional culture and language, and freedom of expression. They now pursue such demands by strengthening civil society, by increasing community awareness of cultural and human rights, engaging in political discourse and debate in the public realm and negotiating with the central government or social movements in general. In doing so, they utilize the momentum behind the demands for democracy within Thailand on the one hand, and the effects of globalization on the other, which has increased international pressure. The two elements of suppression and opportunity continue to shape the current situation, as they have done in other Muslim countries, such as the social movement in Egypt and the Iranian revolution, in which simultaneous but contradictory processes pushed Islamism toward its hegemonic position: *opportunity* and *suppression*. (Bayat, 2007: 7. Emphasis added)

This paper focuses on observing individual and group actors in the social movement in South Thailand in a way that does not neglect the important contributions made by political actors as well as by the insurgency and separatist movement.² This paper contends that insurgency, separatism, and violence are no longer the typical choice for those who strive for fundamental human rights in the

Thai nation-state. Unfortunately, however, the central government of the Thai Kingdom has not been very responsive nor has it taken these demands seriously. It has shown a lack of political will in granting these actors more extensive rights as demanded on a global scale by recent developments in human rights and the rethinking of the concept of nationalism and national identity.³

Rethinking the concept of nationalism has led Chaim Gans, for instance, to differentiate between state nationalism and cultural nationalism. State nationalism places more emphasis on a unified national identity that tends to produce a forced cultural unity that ignores the cultural differences of socio-cultural groups on the national stage. It stresses the geographical boundaries of a nation-state, within which all must refer to one national identity. This concept was applied quite strongly during the Second World War.

Meanwhile, newer conceptions of nationalism include cultural nationalism, which is quite flexible towards cultural differences on the national stage. This concept enables the possibility of creating cultural diversity within a state, especially for those states that are home to very different social groups but that identify themselves as being part of one nation. The relationship between Canada and Quebec is an example of this kind of nationalism, as the existence and practice of Quebec's own language (French) and culture has been granted a certain amount of freedom and flexibility within the state of Canada (Macmillan, 1990: 117-145; Peleg, 2007: 114-122). Any state that is historically home to very large cultural differences will find it necessary to embrace this concept of cultural nationalism, as statist nationalism can no longer be maintained in the contemporary era of globalization.

Although the Thai government has been highly persuasive in running a number of programs as part of its national agenda, such as providing free schooling and constructing infrastructure, in the South these programs are generally seen as supporting assimilation and the eradication of the Malay-Muslim language, culture, and history from South Thailand. Such programs represent a

continuation of the exclusive and static way nationalism and national identity were viewed in the past. The Thai government is incredibly slow in responding to change, and is too cautious simply because of the region's long-lasting resistance to and conflict against the Thai government. If there is no meaningful change in the strategy adopted by the central government in the near future, there is reason to fear a return of a stronger insurgency, a separatist struggle, and more intense violence. For the sake of peace and to guarantee minority rights, the international community must monitor the process that is currently unfolding in South Thailand.

Social Movement as a Strategy: From the Periphery to the Center

Social movement is one way to initiate change through procedures involving political parties and the bureaucracy, or even through demonstration and revolution. As E. E. Schattschneider compared and contrasted the changes brought about in the 1980s in Egypt by the Ikhwanul Muslimin (Muslim Brotherhood) through a social movement without revolution, with the revolution in Iran in the 1970s, which may be described as a revolution without a social movement (Bayat, 2007: 18-19): Different from radical strategies and demands for change voiced through political parties, the bureaucracy, or even through revolution, social movements are more gradual and rely on the awareness of their supporters and on voluntary support due to such awareness, rather than formal membership ties and structured orders. Mario Diani, for instance, describes four primary characteristics of social movements. They first require the establishment of a strong network between the members of the movement through continual, informal, and unstructured interaction. Second, there must be a shared belief and solidarity amongst its members. Third, there is a need for the formation of collective action to resolve conflict, and fourth is the continual pursuit of demands and actions that are not institutionalized and do not follow the procedures usually followed in religious organizations or structures in general (Diani, 2000: 154-176).

Social movements in general involve gradual change, yet tend to mask agendas for radical change and as a consequence are long-term and substantial, and often non-linear (Bayat, 2007: 19-20). Currently in South Thailand, the freedom or autonomy from the central Thai government is perhaps the underlying but very far-off agenda of the social movement. As a result, it is radical in nature, and will remain so especially when gradual but more fundamental change, such as self-determination, self-governance or the acknowledgement of being a minority with equal rights as citizens, fails.

Another aspect of social movements is that they do not neglect the possibility of working with the government in power, and are even open to becoming part of the power structure that they help to shape, though they continue to maintain their independence and original objectives (Goldstone, 2003). This then opens possibilities for negotiation within the new structure in order to obtain the ultimate goal of the movement. While insurgency and separatism would, according to Bayat's categories above, be seen as revolutionary demands for change, this paper does not differentiate between those involved in social movements and those involved in insurgency, separatism, or revolution, as all can have revolutionary demands. The activists interviewed for this research showed great respect for both those involved in party politics and the bureaucracy, as well as those involved in insurgency and separatism.⁴ However, at the same time they are concerned about society's unwillingness to support revolutionary change given that its members have lived under repression in South Thailand for so long that it will take time before they will learn to participate in politics and speak out publicly. Several informants are involved in providing political and civic education to society through various means, including through the mass media, especially radio, print media, and the internet, as well as through organizing training, workshops, advocacy, and strengthening networks between different groups working on a number of different issues. It is thus hoped that such efforts will lead to long-term, radical and substantive change. By using the same channels as those in power, but choosing a different paradigm and a different

target while at the same time encouraging enthusiasm and change, this movement is perhaps an example of what Antonio Gramsci called the 'war of position'⁵ by increasing awareness, strengthening networks, and gaining wider moral, cultural, institutional, and intellectual support within society (Bayat, 2007: 21). For Gramsci, the 'war of position' was a process of change undertaken in stages when outright revolution was impossible, but the change was still in opposition to the hegemonic power. Robert Cox (2002: 361) writes:

Accordingly, Gramsci argued that the war of movement could not be effective against the hegemonic state-societies of Western Europe. The alternative strategy is the war of position which slowly builds up the strength of the social foundations of a new state. In Western Europe, the struggle had to be won in civil society before an assault on the state could achieve success. Premature attack on the state by a war of movement would only reveal the weakness of the opposition and lead to a reimposition of bourgeois dominance as the institutions of civil society reasserted control.

Due to such severe and long (centuries old) repression, like it or not the Malay-Muslims of South Thailand lie on the periphery in national politics, to the extent that several scholars call them 'second class citizens' compared to the Thai majority. Even today, the Thai government continues to view the three Malay-Muslim majority provinces in the South as occupied lands, and not equivalent to the other Thai provinces.⁶ The tendency of the state to force a unified national identity on all citizens that ignores cultural uniqueness and the differences of certain groups on the one hand, and the lack of upward mobility in the workforce on the other,⁷ has led to the advocacy of ethnic nationalism⁸ and the creation of a Malay-Muslim identity in reaction to the strength and depth of state penetration and enforced uniformity. Ethnic nationalism is not static, but rather fluid, enabling flexibility in the strategies used by Muslims in the South in their struggle to be free from state repression. It has made

them more likely to take a middle path in order to take position in Gramsci's 'war of position'.

Yuan-Kang Wang has compared the Muslim minorities in Xinjiang and in Guangdong, noting that while the Muslim minority in Xinjiang tended to take a peripheral position and attitude, the Muslim minority in Guangdong was inclined towards integration and taking the middle path. Wang defined 'peripheral' as a position a group takes when it differs in regard to its perception of national identity and its individual group identity, and tends towards resistance or rebellion. Meanwhile the middle path, or integration, is the path a group takes when it chooses to fully integrate itself with the national identity and to become part of the established social and political structure (Wang, 2001: 178). According to Wang, if the government gives equal opportunities in political and economic mobility as it gives to the political elite, and when it treats everyone equally as citizens, minorities will tend to take the middle or integrative path. This is what occurred in the case of the Muslim minority in Guangdong. On the contrary, if the government restricts the mobility of the political elite of minorities and treats them discriminatively, they will tend to take a peripheral position, as with the Muslim minority in Xinjiang (Ibid.: 181).

However, the South Thailand case differs slightly from Wang's observations. The central government's granting of equal opportunities in political and economic mobility and equal treatment for all citizens is not what has caused the Muslim minority to adopt a middle path, as this is precisely what the Muslim minority is fighting for. Rather, the middle path here refers to the fact that while struggling for these things, the Muslim minority uses democratic and legal procedures, whether through legal, political, cultural, or public communication channels. The middle path includes, for instance, calling for changes in legislation and amendments to the constitution. Reference to human rights as the foundation for the struggle and the objectives to be achieved is also an indicator of the middle path, rather than opposition to the central government based on ethnic

or exclusive identities. Human rights can so become the basis to achieve guaranteed protection of ethnicity or cultural uniqueness, and to realize demands for political and economic justice and equal treatment as citizens.

This paper demonstrates that the middle path or position is thus not solely determined by the central government, but rather can be seized by society to achieve justice, economic and political mobility, and equal treatment as citizens. The ultimate goal may well be to achieve, for instance, freedom or autonomy, yet the final achievement must be reached through negotiation. It seems that this is currently occurring in the social movement in South Thailand. In this context, this research is not intended to highlight the situation in South Thailand as a success story, but rather just the beginning of a phenomenon that may evolve into a trend.

The Thai Kingdom versus Malay-Muslim South Thailand

National Identity and the Fate of the Muslim Minority

Tension, conflict, and the ongoing war between the Patani Kingdom⁹ and the Siamese (now Thai) Kingdom¹⁰ has a long history, some would say it dates back centuries (Syukri, 2005). Others, however, note that when Islam first came to the region, sometime around the 14th to the 17th centuries CE, there was virtually no conflict between the Muslims in Patani and the Buddhists living nearby. They each managed their own kingdoms peacefully. Conflict only emerged in the 18th century with the establishment of the Bangkok Kingdom (1767–1810) and its government, which aggressively replaced the Ayutthaya dynasty (1569–1767) (Pajor, 1988; Dewaraja, 1988). A Malay-Muslim, who wrote a history of Patani which was written in Arab-Malay script (known as ‘Jawi’ in South Thailand), also argues against those who suggest that the Patani Kingdom was already under the rule of the Ayutthaya Kingdom before the Bangkok Kingdom came to power (Mahmud, 2000: 18). The tradition of giving a Golden Flower every year in tribute to the Kingdom of Siam is

controversial, as some consider this a sign that the Patani Kingdom was a 'tributary state' of the Kingdom of Siam, but others see it as nothing more than an indication of good relations and mutual respect as the same tribute was made to other kingdoms, such as the Vietnamese and Cambodian Kingdoms, which at the time were both Buddhist (Ibid.). Lorna Dewaraja who has researched the histories of Muslim minorities in Theravada Buddhist-majority countries such as Sri Lanka, Burma, and Thailand, writes:

(...) During the last 500 years the Thai Muslim who are an assorted community and spread into the Thai Buddhist environment except for the fact that they have remained Muslims. Thai Muslims have assimilated the host culture much more than the Sri Lanka Muslims, for the former speak Thai, wear Thai dress and have adopted Thai forms of greeting (...). (Dewaraja, 1988: 14-15)

Before the Bangkok Kingdom emerged, conflict and war was centered around conquering territory, but with each controlling their own realms (Syukri, 2005). Later developments saw the conflict become more systematic and covert when the King of Siam, Raja Chulalongkorn (1868–1910), influenced by western ideas of nationalism, introduced a nation-state model, and applied strict borders to the Kingdom of Siam. The Malay Peninsula or Greater Patani, which had been under the rule of the Islamic Patani Kingdom, was incorporated into the Kingdom of Siam's new nation-state (Pitsuwan, 1982: 28-29). Chulalongkorn's successor, King Wachiravut (1910–1925), who was born and raised in Europe, mostly in the UK, increased the area incorporating the Patani region, and adopted a stricter version of the western concept of the nation-state. King Wachiravut also introduced patriotism, a mark of western nationalism, by establishing a paramilitary group to protect the Kingdom of Siam's nation-state.

The former region of the Patani Kingdom annexed by the Kingdom of Siam later became a bargaining tool between the Kingdom of Siam and the English and French colonizers, who at

the time occupied Malaya (now Malaysia) to the south, and Burma, Vietnam and Cambodia to the north. The contemporary Malaysian states bordering Thailand – Kelantan, Terengganu, Kedah, and Perlis – were part of this region. At the demand of the English, Siam surrendered these states as a concession so as to avoid being attacked and occupied.¹¹ In doing so, the Kingdom of Siam avoided occupation and thus never in its history was this kingdom, based on Buddhist cosmology, to borrow Surin Pitsuwan's (1985) term,¹² subject to western colonialism. However, in the collective memory of the Malay-Muslims, they have lived under eternal Siamese occupation.

Thai-Buddhism and Malay-Islam: Two Contradictory Cosmologies

Thai modernization and nationalism as introduced by King Chulalongkorn did not only plant the seeds of patriotism in the members of his newly formed paramilitary force, evoke pride in the pioneers of the kingdom, and establish strict geographical borders. It also affected religion. King Chulalongkorn, for instance, initiated the establishment of a religious organization, the Sangha, which consisted of *bhikku*, or monks, at the end of the 19th century.¹³ This organization was intended to hierarchically organize *bhikku*, so that the king, kingdom, and the state could use the organization to legitimize its authority in the eyes of the people. The king then stipulated that a prince should act as protector of the Sangha organization, with Prince Vajiranana first to hold the position (1910–1921) (Keyes, 1989: 137–138).

The influence of *bhikku* in Thai society is very strong, and the influence of Buddhism very deep. In the pre-modern era, one percent of the children in Thailand became *bhikku*, and half a percent became *bhikku* assistants. At that time, according to Charles Keyes, it was common for temples in the villages and also at higher levels to be managed and led by a *bhikku* who came from the local middle or elite classes. It has only been in the modern era that *bhikku* have more generally come from the villages and traditional societies, and

here it tends to be a way to achieve social mobility. Those who are educated in Buddhism often choose between becoming a respected *bhikkhu*, or working in the public or private sectors, holding low or middle rank positions (Ibid.: 138-139).

The integration of the religious organization into the Thai state was so complete that the king was positioned as the protector of Buddhism and thus became an integral part of the religious structure (*satsana*) itself. The king had a special place in religion, as did the *bhikkhu*. According to Thai Buddhist cosmology, *bhikkhu* are religious leaders while the king is the protector of the entire religion of Buddhism in the Thai state. This concept was later adopted into the 1932 constitution of the Thai Kingdom and has been maintained in subsequent amendments. However, the position of king as protector of religion, according to Thai Buddhism, does not refer to the person but rather the position. According to this cosmology, the king has a special relationship with the *bhikkhu* at a spiritual level, but does not have power over the *bhikkhu*. This is reflected, for instance, in Thai citizenship. *Bhikkhu* do not need to have national identity cards, do not need to elect others or be elected in general elections, and are not obliged to pay taxes thanks to their position as religious leaders. Similarly, the king needs no identity card, does not vote and is not elected through general elections, and is exempt from paying taxes because he owns the country and holds a special position in Buddhism. Both the *bhikkhu* and the king are considered to be beyond politics, though it cannot be denied that both have political influence, especially in everyday politics. Thus, there emerges a kind of trinity comprised of the nation, the monarchy/king, and religion. King Vajiravudh formed these three united elements into the 'Three Pillars' of the Thai nation and state at the beginning of the birth of Thai nationalism. The three pillars, the nation (*chat*), religion (*satsana*), and the monarchy (*phramahakasat*), functioned together as a single unit, with the monarchy acting to protect and bind the other two together.¹⁴

Government intervention in religion was not limited to this organization, but extended to religious education. The government, for instance, facilitated the establishment of two religious education centers for Buddhism in Bangkok especially for *bhikkhu* to study religion and meditation, whose graduates could become 'spokesmen', formally known as *Tammathut* (a kind of 'ambassador' for the *dhamma*), promoting government programs. However, later developments primarily in the post-constitutional monarchy era of the 1960s and 1970s saw a deviation from or opposition to the unified Sangha. A number of *bhikkhu* took the initiative to establish a kind of compound with programs that did not require government approval, or that even contradicted or criticized government programs. For instance, *bhikkhu* of very high standing (like *mali* or saints in Islam) established a compound in the forest and turned it into a place of meditation where the community could come and go as they pleased, without government approval. In fact, in the 1960s quite a few had become involved in communism, influenced especially by Vietnam and other neighboring countries such as Laos and Burma. Although the government took a firm stance and punished these *bhikkhu* by expelling them from the Sangha organization, the trend of 'deviance' continued to grow. Today, according to Keyes, it is quite the norm that *bhikkhu* form groups with specific aims and orientations as is typical of non-government organizations (NGOs) that do not seek nor abide by approval from the government, and are often involved in advocacy which conflict with those government programs that do not benefit the people. This is thanks to the emergence of several *bhikkhu* groups that initiated and were involved in independent social programs, both progressive and fundamentalist (Keyes, 1999; Yoshihide, 1999). Keyes writes:

...But Thai Society is no longer one in which what Buddhism means can be determined by the state. The events of the 1970s and the memory of these events, even in silence, fundamentally undermined the dominance of an established Buddhism which had been shaped by a

series of crises involving religion and power since the end of the nineteenth century when the country was first to launch the process of the creation of a modern nation-state. (Keyes, 1999: 36-37)

Meanwhile, the 'ideal' history of Islam knows no formal religious institutions like the Church in Christianity or the *Sangha* in Thai Buddhism. Islam has its own cosmology, not only an ideal cosmology in doctrine and history, but one that has also been influenced by the local realities of the areas in which it exists. Although there tends to be a general platform for Islamic cosmology, local dynamics and challenges have made significant contributions to Muslim cosmology in South Thailand.

Before discussing this further, it is important to note that because of the length of time during which Malay-Muslims in South Thailand have lived under repression and occupation by the central government without freedom of expression, it seems insufficient to base this examination on the life and expressions of Malay-Muslims as recorded in academic historical accounts or equally academic theories on Islam.¹⁵ Thus the main focus is on Malay-Muslim collective memory, though this is of course crosschecked in both academic literature and non-academic pieces written by Malay-Muslims themselves (which also tend to be an expression of their collective memory).

To this end, research was undertaken in South Thailand for one month, where more than 30 key actors were interviewed in depth, some more than once. Attempts were made to experience their daily lifestyle, by going to traditional markets, taking public busses between cities and smaller public transport vehicles within cities, taking motorcycle taxis, speaking with students I met while living on campus, meeting the families of old and newly made friends, and visiting modern and traditional *pesantren* (Islamic boarding schools) to meet teachers and *ustadz* (religious leaders). These activities were undertaken in three provinces, Yala, Narathiwat, and Patani, as well as in Songkhla. Not being able to speak Thai was a limitation as

the majority in Thailand, especially children, communicate in Thai, though almost all Malay-Muslims can speak Malay as it is used at home and when studying religion, especially at TADEKA (religious education centers for pre-school and primary school children that are present at almost every mosque in South Thailand), religious *madrassa*, prayer houses, mosques or at home. Not having mastered the Thai version of Malay, which differs significantly from Indonesian or Malaysian, was another short coming.¹⁶

Collective Memory

Theory

Using collective memory to understand the dynamics of life in situations like those in South Thailand is crucial. Collective memory is one way to immerse one self in the perspectives, thoughts, and ambitions of a community, especially when repression and occupation has meant that it has not been able to or does not have a public sphere in which to express such things. Academically speaking, collective memory differs from history. Examining the collective memory of the life of the Jews who suffered under Nazism, Yael Zerubavel defined the two:

History, the product of a scholarly scrutiny of the records of the past, is essentially a ‘superorganic’ science detached from the pressures of the immediate sociopolitical reality. Collective memory, on the other hand, is an organic part of social life that is continuously transformed in response to society’s changing need. (Zerubavel, 1998: 4)

Collective memory is also said to be a continuation of the historical record, as it is society’s response to past events that have been stored because of repression. Their socio-political objectives or agendas of today and the future are also stored in collective memory. Zerubavel goes on to write:

Collective memory continuously negotiates historical records and current social and political agendas. And in the process of referring back to these records, it shifts its interpretation, selectively emphasizing, suppressing, and elaborating different aspects of the record. History and memory, therefore, do not operate in totally detached, opposite directions. Their relationships are underlined by conflict as well as interdependence, and this ambiguity provides the commemoration with creative tension that makes it such a fascinating subject of study. (Ibid. : 5)

According to Yael Zerubavel (1998), in the entire historical Jewish experience of joy and suffering, only three moments constitute very strong and deep memories. The first is that of their unmatched glory and prosperity when they received the Torah and lived out its teachings. Second, their incredible suffering when they were tortured, expelled, and were scattered over the world with no state or place to live—a suffering that would only continue under the cruelty of Nazism. And the third moment is their hope for return to prosperity with the establishment of the state of Israel on Palestinian land, which promised them a sovereign state of their own, and glory and prosperity like that in the past (Ibid.). Thus, unlike historical accounts that tend to follow objective scientific procedures, collective memory tends to involve emotion. Consequently, it results in the emergence of a group identity and collectivity that differentiates the group from others. Collective memory and the revisiting of various events and moments in that group's history then further strengthen the sense of collective identity (Ibid.: 7).

Malay-Muslim Collective Memory: the Patani Kingdom, Islam, Cultural and National Identities

Jewish collective memory is similar to Malay-Muslim collective memory in South Thailand. Malay-Muslims also remember three important moments, namely their prosperity under the strong Patani Kingdom and the kingdoms before it; their long-suffering under Thai occupation; and their hope for freedom and equality in

the future. In their collective memory, the prosperity of the Patani Kingdom also includes the Islam of the expansive and powerful kingdoms before it, such as the Langkasuka Kingdom, which then became Patani Darussalam (Daud n.d: 10). The Langkasuka Kingdom was not only a source of pride because their kings converted to Islam before any other kingdom in the archipelago, such as Malacca, Sriwijaya in Palembang, or smaller kingdoms in what is today Malaysia. Rather, it was during the Langkasuka Kingdom that the prosperous Patani Kingdom was established, which then not only became a symbol of Islamic prosperity in the Malay Archipelago but also became a global trading center known as the Malay Empire, Greater Patani, or the Malay Peninsula. So important was its position that Michael J. Montesano and Patrick Jory, as if to confirm the collective memory of the Malay-Muslims in the region, describe it in the following way:

If Southeast Asia is a meeting place of the world's civilizations, cultures, and religions, then one of the points of most intense contact must surely be the Peninsula that bounds the eastern side of the Straits of Malacca. It is here that maritime Southeast Asia meets the region's mainland; that 'the Malay world' converges with that of the Thai; that Islam encounters Theravada Buddhism; and that since ancient times the economically dynamic part of the region has been. (Montesano & Jory, 2008: 1)

This deep collective memory, in religion, economics, politics, and culture, that clearly saw Malay-Muslims hold an important position not only in the archipelago but also in the world, was shattered all of a sudden when they lost all their power and identity under the rule of the Thai Kingdom, a state based on Buddhist cosmology that they neither knew nor understood. One historian, who focuses more on representing the collective memory of the Patani Kingdom¹⁷ as written in Jawi script, quotes a heroic sentence written on the exit of a museum in Mexico City. The historian, Haji Abdurrahman Daud,¹⁸ apparently wishes to remind all that the

legacy of history and of a land can never be lost as it always lives on. The original English quote reads:

(...) we leave the museum behind, but not history, because history continues with our life. The Motherland is a continuity, and we all are laborers toiling for its greatness. Out of the past we received the strength required for the present. Out of the past we received the purpose and encouragement for the future. Let us then realize the responsibilities for freedom in order to deserve more and more the honor of being Mexicans. (Daud n.d.: iv)

Perhaps the quote is intended to be satirical as it refers to a passage taken from Mexico, as the political situation in South Thailand is, as a result of government repression, less than conducive to freedom of expression in matters pertaining to the existence and the history of Patani. The quote contains the word 'freedom' and suggests that the past must be a reference for the present. In his 100-page pocket-sized book, Abdurrahman also writes that the Malay Empire lost power completely in 1902. The years between 1902 and 1916 marked the complete annexation of the Malay area by the Kingdom of Siam. The area was divided into seven regions, in order to further fragment Malay power. Then in the 1940s, after uprisings during the previous years, all government heads of the seven provinces and those at the lower levels were appointed by the central government and all were Buddhist.¹⁹ Daud writes on the end of the kingdom:

The Patani Muslim Malay Empire was absolutely defeated. The sovereignty of Malay kings was lost, along with its citizens' rights, like an alligator swallowing powerless prey in one gulp. The right to independence, the right to freedom, and the right to live, to have a nation, a language, culture, and religion.²⁰

Daud refers to the concept of human rights born in the American people's struggle to free themselves from English

occupation by advocating three main rights: the right to life, the right to independence, and the right to freedom. According to Daud, the Siamese occupation of Patani was the result of a series of discussions and agreements between the Kingdom of Siam and the English Kingdom. Siam was determined to maintain control over South Thailand, which it had already split into seven provinces, but the English were also determined to control the area. As an occupying force, the Kingdom of Siam tried not only to conquer the nation and the land, but also tried to destroy ethnic groups, language, religion, and culture. Thus, both the Siamese and the English were colonial forces. For Daud, the three or four provinces that are currently home to the Malay-Muslims from the former Patani Kingdom and that are now part of the Thai Kingdom, are the only Muslim provinces in the archipelago that are still under occupation, as all others have gained independence from the English. On the discussions and agreements reached between the Siamese and English, Daud writes:

Bangkok [capital city of the Kingdom of Siam] considered this agreement to represent great magnificence that they could be proud of because it raised their state to equal standing with the occupying powers in Asia and Europe. As a result of the agreement, Bangkok introduced its new policy, known as the Siam Assimilation Policy, which marginalized the Malays by eradicating Malay existence right down to its roots, through:

1. Eliminating and replacing Malay citizenship with Siam citizenship;
2. Cutting off ethnic Malay identity (passed down through generations) and replacing it with a Siamese identity;
3. Wiping out Malay culture, replacing it with the Siamese lifestyle.²¹

In addition to memories of culture, language, and the claim to the land of the former Patani Kingdom, the position of *ulama* and the application of *sharia* are two elements intrinsic to the memories of the existence of the Patani Kingdom and its Islamic nature. In

the past, the Patani Kingdom was remembered for its adherence to *sharia*, with *ulama* responsible for its implementation. Thus, for Malay-Muslims the *ulama* and the kingdom/king are two sides of the same coin. When Prime Minister Phibul revoked government implementation of *sharia*, the reaction was quite strong. However, in one way demands for the central government to implement Islamic law were an acknowledgment of the existence and authority of the Thai state itself.

The implementation of Islamic law, in the Islamic cosmology of South Thailand, cannot be separated from the existence of the state, either the Islamic Kingdom in South Thailand or the Buddhist Thai Kingdom. In place of the state, an Islamic Council was established in all regions as a facility for registering marriages, divorces, reconciliations after separations, and inheritance. The institution actually works within the boundaries of national law but is managed privately, more like an NGO. Its registries are recognized as legitimate state documents, and any dispute can be brought before the Islamic section of the State Court. According to one employee of the Islamic Council in Yala, from the standard annual budget of five million baht, the government only contributes 200,000 baht, and provides the council with a very simple building at the provincial level. He sees this as yet further evidence of the Thai government's discrimination and injustice towards the Malay-Muslims in the South.²² The remaining budget, he explained, comes from administration fees and *zakat* donations from Muslims. Thus, employees at the center do not receive wages equal to those received by other public and private employees. All, except the administrative officers who are paid from the official budget, must hold second jobs.

Memories of the glory of Islam and the prosperity of Muslims continue to be part of Malay-Muslim collective memory. At this time, several prominent *ulama* and famous writers emerged, one of whom was Sheikh Dawud al Fathani.²³ His books (published as the *kitab kuning*, loose-leaved books printed on yellow paper) are well

known in many higher education institutions in Egypt, including Al-Azhar University, and in the Middle East in general, and are still taught in *pondok* (Islamic traditional boarding schools) in South Thailand. Such *ulama* and writers were believed to have created a deep culture, language, and tradition, as well as a social structure that still exists today. Jawi (Arab Malay) script was a symbol of their existence, and the Malay language is still used today within the family and inteaching Islamic education, even though it has been officially banned.²⁴ Although there are many Thai-language religious education books and even Thai translations of the Quran, there is strong resistance to using Thai in Islamic education, which is understandable given that Thai is seen as part of Buddhism and the Thai State (Pitsuwan, 1985). One Interviewee stated that Islamic education in Thai was seen as part of the effort to eradicate Malay-Muslim culture and tradition, because the government provides normous funding for all subjects taught in Thai, but none for those taught in Malay.²⁵

Based on the above examination, we may conclude that Malay-Muslims in South Thailand have multiple identities. First, they identify with the Patani Kingdom, remembered as the Greater Patani super power, or the kingdom that reigned over the Malay Peninsula. Although it is difficult to find evidence of its former glory in historical records, both primary and secondary sources, or through artifacts, nearly the entire population of Malay-Muslims in South Thailand share the same memory of its existence. In this remembered kingdom, there was unity, between the glory of Islam, the glory of the Patani Kingdom, and the united archipelago, of which they were part, as well as an independent religious court and a special position for *ulama* and *imam*.

Second, they identify with the 'archipelago', or more particularly the 'Islamic archipelago'. Being Muslims, they share similarities with Muslims in Malaysia and Indonesia, especially Java and Aceh. These two areas were often mentioned by Interviewees, who said that culturally, Islam in these other areas of the archipelago was most

similar to that in South Thailand. This belief is held by the entire community in South Thailand. Daud notes, yet, that Malay-Muslims of South Thailand are, as a result of the Siamese occupation, one hundred years behind Muslims in other areas of Malaysia and Indonesia, not to mention Singapore, in terms of *tamaddun* (their culture and civilization).

Third, Islam itself constitutes one part of their identity. Their adherence to Islam makes them feel a part of the Muslim world. They identify with all Muslims, but especially with those from the Middle East. Fourth, they identify with the Thai State as a political reality in all its forms, as a Buddhist kingdom with a Buddhist majority. Interviewees often uttered sentences of the kind, “I am a Thai citizen, but why am I discriminated against, unable to speak about what we have, our language, traditions and history?” All of these identities are prominent in Malay-Muslim collective memory.

While Islam has no institution of religious leaders in Malay-Muslim cosmology, it is apparent that the king and the Islamic/Patani Kingdom or government in general, on the one hand, and *sharia*, the Malay language, and the *ulama* as the leaders of Islam on the other, cannot be separated in Malay-Muslim cosmology. An independent religious court and the enforcement of Islamic moral standards according to *sharia* are an important part of this cosmology. Thus, from almost all perspectives, there is no harmony between the Buddhist cosmology of the Thai State and the Malay-Muslim cosmology of the three provinces.

Even today, Malay-Muslims feel that they are struggling under the occupying force of a foreign power. They still dream of cultural freedom, freedom of expression, and of justice, either through autonomy or through self-governance, with a government of their own based on their own religious and cultural identity.²⁶ Their current situation is much like the Muslim minority in the Balkans and East Europe before the mid 20th century, before the changes that took place there, which Poulton describes as follows:

...(t)he League of Nations (established after the First World War) [now the UN] had a number of provisions regarding the rights of minorities in east or south-eastern Europe, these were largely ignored by the state concerned, with little or no sanction from outside. The explosion of German nationalism under Hitler which led to appalling destruction of the Second World War produced a revolution towards all forms of nationalism, which extended even to provisions for minorities. In the post-war period minority rights were generally ignored in favour of individual human rights. The dynamics of the Cold War issued in the ideological struggle, with the Soviet camp stressing economic and social rights while the West stressed civil and political ones. (Poulton 2000: 60)

Nevertheless, despite harsh repression and imposed uniformity, there are quite a lot of different expressions of Islam in Thailand. As well as having diverse origins, from Cambodia (Champa), Persia or Iran, Indonesia, Malaysia, Pakistan, and the Middle East, within Thailand itself Muslims are spread throughout several regions. They are also not immune to outside influence, including from the Malay-Muslim majority in the four provinces of South Thailand (Yala, Pattani, Narathiwat, and Satun) (Scupin, 1980). Besides this group, there are also Thai-Muslims who have naturally assimilated to the local culture. Muslims in Thailand are thus very plural in terms of their origin, culture, and customs (Gilquin, 2010).

Omar Farouk, an expert on Islam in Southeast Asia generally and Thailand in particular, emphasizes the heterogeneity of Muslims in Thailand. He argues that they can generally be categorized into two groups, the 'assimilated Muslims', who have assimilated to the local Thai culture, and those who have not (the 'unassimilated Muslims'). The 'assimilated Muslims' are generally spread throughout Thailand and have, through a long process, completely assimilated to the local culture except in that they remain Muslim. Meanwhile, 'unassimilated Muslims' refers to those, often called Malay-Muslims, that reside in the three provinces of Yala, Patani and Narathiwat and still resist the existence of the Thai Kingdom (Farouk 1988). Similar

to Farouk, Imtiyaz Yusuf divides Muslims in Thailand into those that are 'integrated' and those that are 'unintegrated'. Yusuf focuses more on the resistance movement caused by the lack of integration of the Malay-Muslims in South Thailand (Yusuf, 2007).

Although it seems impossible that Buddhism could replace Islamic traditions in South Thailand, there is no doubt that globalization and secularization (part of the government program that Malay-Muslims suspect of being a front for 'Siamization' or 'Thainization'), as well as fundamentalism, affect the development of Islam in South Thailand. Today, many Malay-Muslims are concerned about the influence of secularism on the one hand, as it potentially threatens the diversity of Malay-Muslims, but also fundamentalism on the other as it gives them a negative image in the eyes of others and on the international stage.²⁷

Marshal Phibul Songkhram and Thaksin Shinawatra

Ultra-Nationalism,²⁸ the Assimilation Project, and the Marginalization of the Malay-Muslim Minority

The formative era of nationalism, which led to the Thai constitutional monarchy of 1932, was marked by latent tension between members of the old elite who were incorporated into the new monarchy, and the emergence of a new and educated elite, especially in the bureaucracy, military, and political parties. However, this new elite only became new oppressors, more cruel than those before them (Sivaraksa, 1991:52-56). Thus the western-influenced nationalism initially introduced by the king, did at certain times and at certain levels come back to bite him. Keyes (1999: 41) writes:

The reform instituted under King Chulalongkorn at the end of the nineteenth and beginning of the twentieth centuries replaced local political institutions in the semiautonomous polities of the traditional Siamese order with new institutions that were uniform throughout the state and centered on Bangkok. These reforms brought

into existence a bureaucracy that became and still remains for most people the embodiment of the Thai state. The creation of a national army was closely linked with the establishment of a bureaucracy in extending uniform control throughout the state.

Another problem was that the concepts accompanying western-influenced modernization that were adopted both by the king's reformation and also by the new middle class, could not be applied as they were in the West, particularly with regards to the strict separation between civil society, the state, and religion. Thus, modernity was modern only in appearance, and actually adopted and further ingrained the traditional values that contradicted the values of modernity itself. The change to a constitutional monarchy should have made the relationship between the rulers/elite and their people more egalitarian and just, but this was not to be. Keyes once again writes:

Although in English the Thai civil bureaucracy is often spoken of as a 'civil service,' the Thai call officials 'servants of the crown' (*kebaratchakan*). The difference in terminology leads the Thai to see bureaucrats, not as serving the people in whom sovereignty resides, but as representing the crown, or its government. (Keyes, 1989: 141-142).

The height of the assimilation policy, which saw the Siam/Thai identity forced on all Thai citizens and the denial of religious and cultural pluralism and diversity, was consolidated with the reappointment of Marshal Phibul Songkhram as Prime Minister for the second time in 1948.²⁹ In a Prime Minister's Decree, Phibul banned the wearing of sarongs, Muslim hats (*peci*), and the daily dress of Malay-Muslims; the use of Malay as the language of instruction in schools, in names, as school subjects, or as the language used in religious education. Phibul also annulled the previously enforced *sharia* law, including Islamic family law (*al-ahwāl al-shakhshīyah*) (Shoheng 2008). It is no surprise that such extreme state intervention

made Malay-Muslims feel like second class citizens, given the continuous threats, the social, political and economic alienation, and the discriminative treatment they were subjected to in their own country (Mahakanjana, 2006: 7; Pitsuwan, 1982: 89-92). The Religious Court was only restored after significant protest, yet even then restoration was only partial, and the court was no longer an independent body as it was previously but was positioned under the State Court.

During the interim government between Phibul's two terms, the Malay-Muslims led by Haji Sulong³⁰ made seven demands to the central government (Pitsuwan, 1982: 152).³¹ Negotiations over these demands were underway when Phibul started his second term and built a government described by Surin Pitsuwan as chauvinistic and fascist. Haji Sulong and a number of other Muslim leaders were imprisoned for eight years without trial. They were released in 1954, then four years later they were kidnapped and killed and to this day nobody knows where their bodies or graves are. Pitsuwan writes of the Phibul government: "(...) he turned to a leadership theory already practiced by the fascist regimes under Hitler and Mussolini: absolute obedience to the leader." (Pitsuwan, 1982: 86-88)

Phibul's most chauvinistic policy was applied during his first term in government, when he changed the name of the state from the Kingdom of Siam to the Thai Kingdom in 1939.³² In doing so, he completely wiped out any possibility of acknowledging ethnic and cultural diversity in the country. One Interviewed mentioned that the name change marked the end of the existence of the Malay-Muslims in the eyes of the Thai state. Subjects of the Kingdom of Siam who had been ethnic Siamese, Malay-Muslim, and Siam-Muslim, and as such quite plural, were now unified under one ethnicity – Thai. For the Thai state, there was no longer any such thing as ethnic Siamese, or ethnic Malays.³³

Then, in the 1950s and 1960s, protesters and separatists were stigmatized as communists and 'bandits'.³⁴ Under Phibul's government martial law was also introduced, which allowed the

government to detain people for seven days without needing to produce evidence. It is still in effect today. The same ‘threat’ posed by ‘bandits’ and ‘communists’ had previously been used in justifying the military’s extermination of Haji Sulong’s supporters during a religious ritual in April of 1948.³⁵ Later during the Thaksin Shinawatra era the labels ‘bandit’ and ‘terrorism’ were used to contain the 2003–2004 violence, which reached its peak with the April 2004 tragedy (Pathmanand, 2007; Hanna 1965: 1-2).

Student movements demanded democratization and demilitarization in the 1980s and 1990s and this gave some flexibility to Thai politics, which then influenced policies pertaining to South Thailand. Although there was no meaningful progress with regard to essential demands such as the right to use the Malay language in the work place or at school, and the demand for recognition of Malay-Muslim cultural uniqueness in general. Such demands led to the 1997 constitutional amendment, which, amongst other things, allowed civil leaders to step up as national leaders. The inclusion of decentralization was one of the most fundamental changes to the Thai constitution since 1932. However, these changes had no essential implications for the status and position of Malay-Muslims in South Thailand, except in that it raised hopes for possibilities of amending the constitution on a consistent basis.

It was these very amendments that allowed Thaksin Shinawatra, a civilian, ex-policeman, and the richest man in Thailand with his telecommunications business, to establish the political party, TRT (Thai Rak Thai, Thai People Love Thailand). The party won the 2001 election and he became the first Prime Minister from the civil sphere. Thaksin immediately sought to renew the populist economy and to push the civil sphere to play a greater role in national leadership. For the economy, Thaksin created three main programs: national competitiveness, industrial linkage, and small-scale entrepreneurship. Besides his success in raising Thailand’s technological capabilities to compete on the worldstage, Thaksin also channeled capital to develop small and medium enterprises down to the village level (Lauridsen, 2008: 5). His success in this

matter was proven by his party's re-election in 2005, although he lost all his seats in South Thailand, especially in the three troubled provinces. Before the end of his term, there was a military coup and the TRT was banned from politics by the Thai Supreme Court. The ban is still in effect today. In strengthening his politics and civil society, Thaksin also recruited former university leaders, and was not hesitant about working with those from the left. Charles Keyes describes Thaksin's government:

The new government [PM Thaksin] that took power in January was widely praised for including several leftist-oriented student leaders from the 1970s, for its apparent openness, and for its concern for social justice. Chamlong was very positive in his support for a new government. (Keyes 2006: 18)³⁶

For the South, besides channeling capital for small and medium enterprises, Thaksin also developed infrastructure that had never been built before such as inter-provincial highways between the three provinces. He also appointed Wan Muhamad Noor Matha as a minister, then Vice Prime Minister and also as spokesperson for the Prime Minister's office.³⁷ He was a leader of the Wahdah Islamic group,³⁸ which had formed a coalition with Thaksin's party in the 2001 election and won a sufficient number of seats. Thaksin was also quick to shift responsibility for security in South Thailand from the military to the police.³⁹

However, this honeymoon did not last long, as Thaksin had built a centralistic government, or as some described it, a civil dictatorship. Thaksin was also felt to have established a highly chauvinistic nationalism, as seen for instance in the name he gave to his party, and his management of conflict, particularly in the South, along the lines of George W. Bush's global counter terrorism strategy (Pathmanand, 2005: 8-13).

Thaksin's management of government was little different from how he might, as CEO, handle a private company. Lauridsen aptly writes: "(...) the politics of Thaksin was one of the centralization of

power in the hands of a CEO Premier transforming the Thai state into his own machine” (Lauridsen, 2008: 24). Thaksin, Lauridsen continues, became a ‘soft authoritarian figure’, who saw democracy not as an objective in itself but purely as a tool for gaining power (Ibid.). Thaksin’s centralization of power did not just encompass parliament, the cabinet, and the bureaucracy, but extended to the military, police and independent observers such as the NCCC (National Counter Corruption Commission), the Election Committee, the Constitutional Court/ECC, media, local actors, civil society and NGOs. Lauridsen (Ibid.: 20) writes:

He looked on the country as a company and worked to centralise of power (sic) in the hands of a single authority, namely CEO Thaksin himself. Moreover, his ‘war on corruption’ was in contradiction with the way in which he undermined the NCC and with his constant political manoeuvrings to save the TRT from public scrutiny.

Some observers are of the opinion that the move to have the police replace the military in South Thailand was not motivated by civil forces, but was part of Thaksin’s business strategy, and his positioning of loyal people at all levels. Many people close to Thaksin, a former policeman, had backgrounds in the police force, and thus he was able to control the police well before he could control the military. In addition, the people in the South disliked the police more than they disliked the military (Askew, 2007).

Perhaps the worst part of the Thaksin government’s policy on the South was the release of the Emergency Decree, which allowed authorities to detain a person for 30 days without sufficient evidence. Thus, South Thailand has, until today, been oppressed by three frightening laws, namely the criminal law, martial law, and the Emergency Decree, in addition to the ISA (Internal Security Act) which has yet to be put into effect. Under martial law and the Emergency Decree, the authorities could and still can arrest anyone suspicious in South Thailand for 37 days without producing evidence. Tragically, after the coup d’état ousting Thaksin in 2006,

all his policies, including these two laws, fell back into the hands of the military (Interview Jitpiomsri, August 14th 2009).⁴⁰

According to Professor Chaiwat Satha-Anand, an expert on conflict and peace in South Thailand who currently heads an information center on peace and conflict at Thammasat University, Bangkok, half way through Prime Minister Surayud Chulanont's period in government and after the 2006 coup, Surayud Chulanont proposed an ISA but was then caught up in internal problems within his government and it was soon forgotten.⁴¹ For three years later it had not been put into effect due to disagreement between factions within the government. One benefit of the ISA is that although it does not annul martial law, it does annul the Emergency Decree. "At least citizens can't be arrested arbitrarily for 37 days, but only for seven," said Jitpiomsri (Interview). According to Jitpiomsri, the ISA requires that there be the institutions or infrastructure necessary to implement the ISA and annul the Emergency Decree. However, the Emergency Decree can be extended every three months before the ISA is made effective. In the evaluation of the Emergency Decree in July of 2009, of which Srisombop was coordinator, he suggested it be extended once again but that the government must build the infrastructure for the ISA and annul the Emergency Decree in the following three months (before September, 2009). From then on, Jitpiomsri said, the ISA could slowly be introduced.

From the examination above, perhaps Mahakanjana's depiction is fitting:

When looking back to the root causes of the conflict, it is clear that the impact of the centralized state itself explains the emergence of the separatist movement in southern Thailand. ... (t)he movement started with the state penetration into the peripheral areas of southern Thailand and the disruption of the local power structures. (Mahakanjana 2006: 14)

McCargo recommends:

The only way forward is to try some form of participatory legitimacy: to give Malay Muslims substantial control over their own affairs, while retaining the border region as part of Thailand. In other words, substantive autonomy – probably called something else – is probably the only long-term solution that might satisfy most parties to the conflict. To broker this settlement, ensure the peace, and marginalize the extremists who would seek to subvert it, new political and security arrangements will be needed. (McCargo, 2007: 188)

Sulak Sivaraksa (Interview, September 28th 2009), an eminent social critic and spiritual Buddhist in Bangkok, believes that as Malay-Muslims in the South are not Thai or Siamese, they have their own history and culture and thus need to be treated separately if the Thai Government does not wish to be considered discriminative. Similar suggestions have been made by the NRC (National Reconciliation Commission), formed by Thaksin after the April 2004 tragedy specifically to address the Tak Bae and Kru-Ze Mosque incidents. The commission employed intellectuals, NGO activists, and religious scholars, to produce highly comprehensive recommendations. However, no serious follow-up action was ever taken on the commission's recommendations, and thus it was seen as only having been established to appease international pressure coming largely from the UN, with no real intention to implement its recommendations.

On the other hand, Professor Chantana Banpasirichote-Wungao, lecturer in politics at Chulalongkorn University, believes that there is no formal discrimination towards the Malay-Muslims in the South. Rather it is a matter of incompatibility in terms of language and culture. The central government, he says, has made Thai or Siam the standard language for education and work, while Malay-Muslims use Malay. Because no specific action has been taken to address this, they will always be left behind and be marginalized in the work force, in education, and in fact in almost any field.

Consequently, while the government might seem discriminative this is not really the case (Ibid.).

Response from the South: Shift Towards the Center

The Events of 2003–2004

For the majority of people in South Thailand, 2003–2004 was full of unrest and uncertainty. Oppression, discrimination, and violence have always been part of life in the region, but these two years saw an unprecedented escalation in violence. According to McCargo⁴² and data given by the NRC,⁴³ throughout 2003 there were several violent outbursts, including the attack on a border police patrol on April 26, and an attack on a security check point on 3 July that killed five police officers and one civilian. Violence reached new heights in 2004, with three major attacks. On 4 January, there was a large-scale attack by insurgents against the Joh-Ai-Rong military base and weapons were stolen, and on 28 April simultaneous attacks were mounted against several security check points, eventually provoking police to fire on insurgents in the Kru-Ze mosque (historically associated with the coming of Islam to the Patani Kingdom), killing 105, as well as five police officers, and one civilian. These two attacks were followed by a demonstration on 25 October in the Tak Bae district of Narathiwat. Demonstrators demanded that imprisoned friends be released, but police responded by indiscriminantly firing into the crowd, killing seven. 78 more died a terrible death in trucks on the way to jail.

These violent outbreaks only made the central government increase monitoring of and tighten control over society in the South by introducing the Emergency Decree to complement martial law, and shifting control of all new legislation to the military, and no longer the police, as had been the case during Thaksin Shinawatra's government. Almost all Interviewees said that these incidences were more beneficial than harmful. That is, they succeeded in forcing the

central government of Thailand and the world, especially Southeast Asia, to open their eyes to the oppression and discrimination occurring in South Thailand.⁴⁴ Although some did not agree with the use of arbitrary violence, they respected the insurgents and separatists who determinedly pursued their aspirations in their own way. In reality, since 2004 the central government seems to have paid more attention to the budget and cultural rights, granting, for instance, flexibility to study Malay and Jawi script in schools, particularly in *pondok*. Although officially there is no legal basis for such measures, except maybe that found in the passages of the Constitution on which the nation-wide process of decentralization is based, these recent developments are encouraging enough to prompt further initiatives.

There has also been sufficient change in the struggle for human rights. In the past, there were only two choices: to be involved in political parties and the bureaucracy which meant collaborating with the government, or to turn to separatism or insurgency. However, since 2004, a new phenomenon has emerged, namely the growth of civil society organizations and NGOs addressing a variety of issues. Initiatives to support the Malay language and cultural rights have also emerged informal government institutions and schools, which indicates an acceptance of a key Malay-Muslim aspiration (cultural rights) as expressed in mass media and by NGOs, although the reality is still far from the ideal.

South Thailand Aspirations: From Haji Sulong, and the Constitutional Amendments, to the NRC

The struggle for special rights for the people of the three Muslim-majority provinces of South Thailand from the Thai Kingdom has been ongoing, at least since the beginning of the 20th century, but was only systematically formulated with Haji Sulong's 1947 petition. Several key aspirations of the petition were as follows: South Thailand, or the three provinces, should be governed by a leader elected directly by local residents; taxes should

be used entirely for improving the well being of the residents of the three provinces; local governments should be given authority to implement *sharia* as they see fit; independent rights should be given to a Religious Court and Islamic Council; and 80 percent of civil servants should be local residents. The petition was brought to an end with the imprisonment of Haji Sulong and a number of other South Thailand Muslim leaders in 1948, and their kidnapping and murder in 1958. This did, however, unwittingly create an ever lasting hero for the people of South Thailand.

In conjunction with democratization at the end of the 1980s, several changes were made to the management of the Thai state, the most important amongst them being the 1997 constitutional amendment. It had implications for demilitarization (although the military has regained power since the 2006 coup) and decentralization, with direct elections for the position of governor in areas deemed ready. Unfortunately, only two central provinces, Bangkok and Pattaya, have been deemed ready. The constitutional amendment underwent several changes in 2002 and later in 2007. The latter, which further consolidated the 1997 amendment with regard to social participation and decentralization, stated that the chief executive of the Provincial Administration Organization, a provincial position below the governor, would be elected directly by the people and would be responsible for development and the provincial budget, but the security and political sectors remained under the governor who was, and still is, appointed by the central government (KPI, 2007: 22-28).

The recommendations of many observers, researchers, and politicians associated with the NRC are seen as highly comprehensive, but, as mentioned previously, they have certainly not been implemented effectively to date. Recommendations made included the political and cultural rehabilitation of the Malay-Muslim southern provinces, which would involve the re-establishment of the cultural and community education institutions that were damaged or destroyed under the repressive political system. Cooperative

reconciliation was also proposed, as well as strengthening the economy, politics, and job opportunities, and increasing fairness and equality in recruiting employees to work for the government, private companies, or in education. Basically, they constituted some form of affirmative action for the people of South Thailand, who have been left far behind in comparison to ethnic Thais (NRC 2006). Chaiwat Satha-Anand notes (Interview) that the NRC's recommendations were given some attention under Surayud Chulanont during his short tenure as Prime Minister after the 2006 coup. However, after this he was busy with internal politics. Nevertheless, the situation made it possible for the civil society led social movement to develop and to become more resilient. A number of important actors in the movement are discussed below.

MAC: Human Rights and Law Enforcement

Twelve March 2004 was a dark day for Malay-Muslims in South Thailand, amongst the sporadic outbreaks of violence that had been present ever since early in 2003. It marked the kidnapping and murder of Somchai Neelapaijit. He had been a lawyer, working *pro bono* to defend victims of kidnappings or imprisonment, and those accused of terrorism in South Thailand. Although residing in and coming from Bangkok, and being a Thai-Muslim not a Malay-Muslim, his perseverance in defending accused terrorists and political activists from unjust criminalization in South Thailand is well known and recognized. Somchai Neelapaijit is only one of many Muslim activists or defenders of activists in South Thailand who were kidnapped and killed, with no one knowing the whereabouts of their bodies or their graves. The five police accused of kidnapping and killing him were tried, but only one Mayor was given three years in jail and not for kidnapping or murder, but on common criminal charges. The rest were released on the grounds of insufficient evidence. From Haji Sulong's death in 1958, to Somchai Neelapaijit in 2004, those in power have continued to resort to kidnapping and murder of those fighting for, supporting, or defending the rights and freedom of expression of the people of South Thailand.

Somchai Neelapaijit was also the president of the MLC (Muslim Lawyers Club) in Bangkok and vice president of the Thai Human Rights Committee. At the time, not many were brave enough to follow his steps in defense of political victims, especially in South Thailand as there was a significant political risk. However, Somchai Neelapaijit went about his work diligently and also supervised a number of junior lawyers from South Thailand who were studying in Bangkok. They became the founders of the MAC (Muslim Attorney Center), which worked *pro bono* to help political victims and their families with advocacy and legal matters. While the MLC was based in Bangkok and only worked secretly in the South, the death of Somchai Neelapaijit stimulated MAC to maintain a presence in each of the capital cities of the three provinces of Pattani, Yala and Narathiwat, as well as in Songkhla, the largest city in the vicinity.⁴⁵ The MAC not only accompanies victims in court, but is also involved in political advocacy, direct advocacy, investigation, and providing legal education for the public to increase understanding of legal procedures and people to contact if something should happen. Education is particularly concerned with martial law, the Emergency Decree, kidnapping, shootings, and arrests.⁴⁶

Each MAC branch has between seven and ten full-time lawyers and 20–30 volunteers who provide their services free of charge. Even today, these offices are filled on a daily basis with all manner of cases, from those who have lost family members, to victims of fatal shootings, arrest, imprisonment, and kidnapping. “In fact, we’re overwhelmed because we don’t have enough people, but because of restricted funding and a limited number of volunteers, we just do our best,” said Anukul Arweaputeh, director of the Patani branch of MAC.⁴⁷ MAC is committed to enforcing human rights such as the right to life, freedom from torture, freedom from death, freedom from fear, and freedom of expression.⁴⁸ It has maintained its headquarters in Bangkok since its establishment in 2005, but is operationally centered in the four regions mentioned above.

After its headquarters were established, MAC branches were set up in Yala, Narathiwat and Patani. “People were working in

each city as soon as MAC was established in Bangkok, but the centers in each city were officially established one per year,” Anukul Arweaputeh said (Interview Arweaputeh, Director of the Patani Branch of MAC, August 18th 2009). Almost all MAC lawyers are, directly or indirectly, Somchai Neelapaijit’s students. And, although fighting for Muslims, they also work with Buddhist and other non-Muslim lawyers. Phongarat, for instance, is a Buddhist lawyer who is not a member of MAC, but who travels two to three times a week between Bangkok, where he lives, and the three provinces, in order to accompany victims in court. He took me to visit the families of people in South Thailand who had been murdered, kidnapped, had their *pondok* shut down because it was thought they were harboring separatists, and those accused of shooting or killing citizens. According to Anukul Arweaputeh, initially it was difficult for MAC’s people to reach victims because they had been so used to having to pay lawyers every time they went to court, but gradually they have begun to feel the trust society, religious leaders included, has in them (Interview).

In addition, there is a flexible coalition between MAC and a number of legal experts from universities and NGO activists in general, including women’s NGOs, not only in the South but also in Bangkok. Yet it is no easy thing to get lawyers involved. According to Anukul Arweaputeh, not many lawyers in the South are prepared to display the kind of attitude that MAC does because of the high risk involved. However, gradually the police, military, government, and even the justice system have started to take note of the situation. MAC also publishes an annual report on the political situation in South Thailand and selects cases on their website www.macmuslim.com.

Women’s Movement: Initially for Victims

The women’s movement currently plays perhaps the most important role in South Thailand’s social movement. According to Soraiya Jamjuree (Interview, August 26th 2009), lecturer at the

Education Faculty of The Prince of Songkla University and an activist, before the violence of 2003–2004 women in South Thailand were well established, in that they worked, as was customary, in the home, in the rice paddies, or did sewing. Some worked in offices. However, the current situation has forced women to seek work outside the home as many have lost their husbands or sons, either because they died in violence, or were shot or arrested for suspected involvement in the insurgency.

Some of these women built up a network of victims, assisted by NGO activists and academic researchers, to help one another. They currently seek to help school children, secure scholarships, find work for widows (although opportunities are limited and rather uncertain) and defend victims in court, most of whom are poor, by working with lawyers prepared to work *pro bono* (Interview Zaenab aka Yena, August 24th 2009). Many women now have to run their households on their own, while previously they usually did not work as anything other than as housewives. To date, government compensation for victims and families affected by the violence in this way is very limited.

Zaenab, known more commonly as Yena, and Zubaidah are two such activists whose families are victims of the violence. Yena lost 48 family members, including her children, in the Tak Bae incident. Before, she worked as a tailor, and her husband as an *ojek* (motorcycle taxi) driver. They had eight children. Now Yena, a junior high school graduate, is coordinator for the three provinces. At 48 years of age, she is considered rather old for an activist, but she enjoys her work serving the families of victims by finding lawyers, finding schools for orphans, helping victims make their way to government offices as needed, and accompanying them to court if family members have been accused of involvement in the separatist movement. “I only be friend them and find them a lawyer. If they need letters, I accompany them to the relevant government office,” she said while accompanying two neighbors to the Narathiwat Court to face charges of murdering a Buddhist who was shot in

front of their house two years earlier. The two neighbors had initially been arrested and detained for one month, then released and allowed to work in Songkhla. However, three months later they were summoned to court in a case that has dragged on for nearly two years. "He hasn't worked for over half a year and has had no income because of the court case," Yena said (Interview). Many people share the same fate.

This is what Yena and the six to ten other colleagues working in each province face on a daily basis. It is no easy thing, and because of her work, she lost her husband two years after her children and relatives died in the Tak Bae incident. He was shot dead while riding his motorcycle, which Yena believes was due to her activism. Now Yena, seems to know no fear and never tires. She travels around the three provinces on a daily basis to coordinate responses to emerging issues and new cases, and to accompany victims. Her thick notebook and official correspondence with various authorities indicates just how much she deals with the authorities in the three provinces. Many cases involve people accused by police of being involved in separatism. On average, they may only be detained for a month, or a month and seven days in accordance with martial law and the Emergency Decree, but their subsequent dealings with the police and the court can take from two to four years, not including time in jail if proven guilty. In practice, according to Phongarat, many people are imprisoned for two years in Bangkok then released. Their cases are then submitted to the court in a process that may take another two years, and then the court sentences them to imprisonment again. Constant dealings with the police and the court makes life miserable.

Yena and her colleagues receive support from NGO activists and lecturers and researchers at universities, such as activists Soriaya Jamjuree (Interview, August 26th 2009), and Alisah Hasamoah (Interview, August 27th 2009), both of whom are lecturers in the Faculty of Humanities and Social Sciences at the Prince of Songkla University. The current priority for women, according to Jamjuree,

is to ensure that government compensation or aid, when given, does not discriminate. “We are currently fighting so that victims aren’t discriminated against when being considered for aid, especially those whose husbands or family members have been accused of involvement in the insurgency. At the moment it’s good news, although it’s still a long process,” she said (Interview). Currently, victims involved in the insurgency or separatist movement do not receive any aid whatsoever because they are deemed to be fighting the government and the state.

The movement also works with Buddhist women. One such senior NGO activist is 54-year-old Chomron Poo Doolae Daek, better known as Kunj (Interview, August 13th 2009). Initially involved in the movement advocating peace and human rights through interfaith dialogue in North Thailand, after the violence in April of 2004, Kunj quickly moved to help victims in the South. She established a network with Yena and others, as well as with Jamjuree and her network. First, she started with trauma healing for the parents, wives and children of victims. She then started looking for scholarships for their children to attend school, and then moved on to finding work for the wives and the children of victims. She also established a network with social workers, including with Yena and Jamjuree’s group. Initially Kunj had difficulty obtaining the support of religious leaders in the South because in addition to being a female, she was also Buddhist. However, after becoming aware that her programs were helping Muslim victims, they were quick to give their support. Kunj’s appointment as member of the NRC enabled her to gain support from the religious leaders, *imam*, and academics also involved with the commission. “I have a lot of support from religious leaders, some of whom I met at the NRC,” she said (Interview).

Speaking on the role of women, Jamjuree explained that the current issue was the increasing need for women to work outside the home because of their circumstances, for instance due to the death or arrest of their husbands and sons, or even because

of their often lengthy involvement with the police and the court. This becomes a problem because job opportunities for women are limited, in both government and private sectors, let alone with the military or the police. The ratio of women working in offices in the South is incredibly low, as are job opportunities. Jamjuree remarked that in terms of education and skills, women in the South did not lag behind men, but rather there were no government policies or political will in general, nor any push in the private sector, to give more positions to women. Jamjuree and her network have been involved in negotiations with several departments of the central government, urging them to provide more jobs for women. They feel that the suggestion has actually been well received, but the process will take years.

All such activities, whether by NGOs, grassroots movements, or university groups, produce comprehensive data that are compiled and analyzed by a research institute under the Faculty of Technology of The Prince of Songkla University, known as the DSCC (Deep South Coordination Center). According to DSCC coordinator, Dr Metta Kuning, this institution is not only involved with other groups in the empowerment of society, but is specifically involved in compiling data on victims, widows, and children with regard to their current status, and in monitoring victims who pass through hospitals and NGOs. To date, the DSCC boasts a network of 47 hospitals that routinely pass on data regarding victims, widows, and children. Currently, there are 1,063 children and 400 widows as registered patients. Facts about the victims' lives are then added to the initial data, which is then distributed to NGOs and the government in order to facilitate empowerment (Interview, Kuning, September 3rd 2009).

Malay Language and Culture

Malay language, Jawi (Malay Arabic) script, and religious education are the three most important features of Malay-Muslim identity, and have thus been the focus of much concern. There

is therefore a larger focus within the movement on these aspects. Of course, the three will never be lost because they are continually maintained by the community, especially through TADEKA, *pondok*, and religious education in mosques, as well as within Malay-Muslim families. Despite the ban during Phibul's term, *pondok* and mosques have never neglected these three features, regardless of the risks. The ban against using any language other than Thai in the workplace, in public, in schools, and in names was only introduced in the 1960s. However, very recently, government schools have begun to teach Malay for one hour a week, and it is also used in informal religious studies. The long struggle for Malay to be used for communication in the workplace and in schools continues as the government has yet to change its stance on the issue. In addition, government schools are not allowed to teach the history of Patani. Leaders of both traditional *pondok* and modern *pondok* (where a combined curriculum of religious and general education is taught) constantly spend their own time and money to teach Malay, Jawi script, and religious education. Up to Year 9, these schools have always provided these subjects to supplement what children learn at home. *Pondok* that collaborate with the government, politically and in regard to the curriculum they offer, do not officially provide this education. When in the 1980s things became more flexible, Malay and religious education were once again taught in schools, especially in religious schools, until Year 4. More senior students learn Arabic for religious studies. This, however, is not part of the formal curriculum, all of which, including religious studies, has to be taught in Thai.

However, a number of *pondok* have set aside funds specifically to employ teachers of Malay and to provide extra classes for students. The Darus Sat *pondok* in Sae Buri, about a 90-minute drive from Patani, has 4,500 students, and has taught a modern curriculum since the 1960s. This *pondok* has always allocated funds and time to teach Malay and religious education using Jawi script. At the time fieldwork was conducted, students had to pay nothing,

as the government covered the cost of their tuition with a yearly subsidy of 10,000 baht per student. However, the government has refused to allocate money to study Malay, religion (taught in Malay), or local history, which forces the *pondok* to set aside funds for these studies. "All official subjects, including religious education, must be taught in Thai," said the director of the *pondok*. He revealed that it was now possible to teach Malay and Jawi script unofficially, though the history of the Patani Kingdom was still disallowed (Interview).

One diligent student in the *pondok* said he lacked the courage to keep any books on the history of Patani as he was arrested and detained for a month in 2004, accused of being involved in the violence. Before he was arrested, he had buried all his history and reference books. They subsequently rotted and he is too scared to buy more books on the history of Patani.

The plan, according to the directors of Darus Sat, was to teach religious education in the Malay language (both in Latin and Jawi scripts), as well as in Thai, using funds provided by the government. Sekolah Sasnupatan (Ma'had At-Tarbiyah), a three-generation-old *pondok* located ten kilometers from Patani, is already implementing a similar model for its 2,500 students.

Recently, especially since the violence in 2004, a more collective awareness of the importance of Malay has become apparent in public discourse. Its emergence has coincided with the spread of community radio. Now, many foundations, *pondok*, and individuals concerned about the Malay language and Jawi script run independent broadcasts. One such organization is YAKIST (the Foundation for South Thai Islamic Culture), established by former Police Major Tengku Arifin Bin Tengku Chik. The 55-year-old man worked for 20 years as a policeman stationed on the Thai-Malaysian border, but began to feel that the Thai government was discriminative in providing job opportunities for South Thais compared to other Thais. He thus resigned and used his pension to establish YAKIST. The foundation runs free courses in Malay for the community, especially for children, in the three provinces. It also runs courses

in English and Arabic for a small fee. In addition, YAKIST has set up a community radio network in the three provinces, which uses Malay to converse about various topics. “The aim is to make Malay the language of communication for a variety of subjects, not only Islam,” Arifin explained (Interview). There is Malay tuition comparing Thai Malay with Malaysian and Indonesian variants, so that the Thai Malay language is able to keep up with developments in the archipelago. YAKIST regularly makes interactive Malay language programs with commercial radiostations that enable listeners to communicate directly with presenters. “The program is on the air for one hour a week, but broadcasts over several commercial stations in the three provinces,” Arifin said. YAKIST also holds periodic exhibitions of Malay culture in the provinces.

Mansor Salleh is involved in a similar endeavor in Yala, the largest city of the three provinces in the South. When this businessman and former director of YMAT (the Young Muslim Association of Thailand) was the Anwar Ibrahim’s generation was running the Muslim Youth Movement of Malaysia (ABIM), he shifted from organizing charitable social activities to more transformative ones. After finishing his studies, and thus stepping down as director of YMAT in Bangkok, he returned to Yala and developed charitable social programs, such as education in entrepreneurship, language, and micro-economics. Over the last four years, he has established a community radio network to help develop the Malay language. The station broadcasts five hours a day on various subjects. In addition to this, Salleh also helps increase political awareness within the community, especially amongst children. “The objective is to make young children aware of the importance of Malay and the history of Patani, because they don’t learn enough in government schools, especially when it comes to the history of Patani,” he said (Interview).

Ismail Yakub, a traditional *pondok da’i* (preacher) works with the Islamic College of the Prince of Songkla University through his organization, PUSTA (The Center for Conservation for Local

Culture and Environment in Southern Border Provinces of Thailand) to hold various exhibitions of traditional South Thai Malay art as part of the cultural movement. Most exhibitions are held in villages, open fields, *pondok*, and *madrassa*. PUSTA also promotes local Muslim leaders and *ulama* through seminars to help build awareness of local and Malay culture. Known officially as Haji Ismail Ishad Benjamith Al-Fatani, this 50-year-old man dresses traditionally in the Islamic *haji* hat, sarong, and Muslim shirt, but associates widely with all manner of people to the extent that he has been a consultant for a number of foreign institutions, including the Thailand Office of the FES (Friedrich Ebert Stiftung). He was also coordinator of the People's Network for Southern Socio-Political and Economic Affairs, was appointed to the Committee of Tourism and Sports for the Patani Province, and was Chairman of PUSTA. He believes that the reinvention of Malay culture must incorporate local intellectual roots and must be developed with a wider, more regional perspective (Interview with Hj Ismail Ishad Benyamith Al-Fatani, August 11th 2009).

Mass Media and Data Collection

The media is important in providing information and voicing aspirations. Yet precisely because it is so effective at doing so, undemocratic governments are often scared of the media. This has certainly been the case with the Thai Government and the local media in the three southern provinces. To date, there has been no local print media in Malay, either in the Latin script or Jawi script.⁴⁹ The same is true for television. Only recently have radio broadcasts in the Malay language begun to increase, but even these are generally only broadcast by community radio stations, and not by commercial or government stations.

The year 2004 seems to have changed everything for those in South Thailand. Since the violence, a South Thailand journalists' network has been formed, known as Voice Peace and comprising journalists born and residing in the three provinces and aimed at

improving reporting on South Thailand, which has been severely restricted due to central government repression. Voice Peace publishes media online at www.voicepeace.org. It is, in a way, a kind of informal news office, which provides more open and detailed news. The majority of journalists involved used to work in the public or commercial media, but decided to form their own network able to publish news online that otherwise cannot be published in papers or broadcast over the radio or on television. The website does not only contain news, but also features and human-interest articles. Most are published in Malay, but select articles are translated into English and Thai. According to chief editor Tuan Daniya Hj Mansor (Interview September 6th 2009), the network advocates complete freedom of information in South Thailand, or at least as an alternative to the media that has, to date, been monopolized by investors and the government. "Investors are usually too scared of the government to risk publishing news about taboo matters. Although legally there is virtually no censorship on reporting, investors usually engage in self-censorship," Daniya explained.

Local and foreign professional media organizations often use articles found at voicepeace.org. Even the Thai government quote them. "We actually urge others to publish our news in their media," Daniya confirmed. The news often features reports on the lives of families who have suffered from the violence, who have had relatives shot or arrested. It also publishes news that is hardly ever found in public and professional media, describing how victims are shot and arrested. "Their public media reports do not answer the what, when, where, who, why, and how of things because they just publish what the government and military say," Daniya continued (Interview). According to Daniya, Voice Peace is actually radio based, and coordinates a network of community radio stations, but obviously also includes other media forms. Voice peace is not alone in providing an alternative, more in-depth media, but is supported by a journalist think-tank, DSW (Deep South Watch). DSW is centered in the Faculty of Humanities and Social

Sciences at the Prince of Songkla University Patani Campus, but comprises journalists and social/political researchers from the three regions, and even several from Songkhla. While voicepeace.org put emphasis on news, feature articles, and human-interest pieces, DSW is more focused on publishing research data on its website (www.deepsouthwatch.org), especially quantitative data on the media and what is published in the media, as well as academic research data, in an attempt to provide supporting data for the media. Thus, DSW is a place where journalists can gain more data, and can further analyze data they cannot publish in their own media. The organization was established and is led by two senior members, one senior journalist by the name of Ayub Pathan (Interview, August 17th 2009) and the other, Dr Srisombop Jitpiromsri (Interview, August 14th 2009), a former Dean of the Faculty of Humanities and Social Sciences at the Prince of Songkla University and current director of the Center for South Conflict and Cultural Diversity (DSCD) in the same faculty. Junior journalists collect data from the field to produce the final product which is published on voicepeace.org. These reports and the reports at deepsouthwatch.org are then used to increase social awareness amongst the lower classes, especially among the families of victims, through workshops, training, and other forums. Thus, the information journalists obtain is not only attained from investigation, but from society and the victims' families themselves. According to Daniya, family members of victims often write for VoicePeace.

Religion and Pondok

McCargo (2009: 20-28) divides Islam in South Thailand, as in other places, into two categories, namely traditional, which still accepts syncretic elements, and modern, which has been cleansed of such elements. McCargo goes further to explain that the modern are more willing to accept government programs, and are thus more progressive than the traditional who tend to reject government programs. This causes the traditionalists to be rather backward in terms of curriculum and development.

The findings of this research propose a slightly different way of categorizing Muslims in South Thailand. It seems that traditional Muslims are those who practice local Islamic traditions and who adhere to local wisdom. These traditional Muslims can then be further divided into two categories, those who accept government programs and those who are selective or reject such programs outright. Those who choose the latter are indeed left behind in terms of curriculum and development. The very large majority of Malay-Muslims in the South are traditional. There is a very clear division within this category between those who are willing to accept government programs and its academic curriculum, and those who are selective or completely uncooperative. Those who accept the government curriculum must teach all subjects in Thai, including religious education, which may only take up two hours a week. Yet they often add their own curriculum to teach religious education in Malay using Jawi script in the afternoons. This kind of model means classes run from 8:00 in the morning to 3:30 in the afternoon. While academic studies are held in the morning, the afternoon is set aside for religious education. According to a number of Interviewees from various *pondok*, about 30 percent of *pondok* maintain purely traditional systems teaching only religious education, while the remaining 70 per cent are also traditional but apply a modern system with a combined curriculum. In addition, there are those that tend to be puritanical (McCargo's modern Muslims) by ridding religious practices of both local and Middle Eastern traditions that are considered to have no basis in the Quran and the *hadith*. Such beliefs are often referred to as Wahhabism by the traditionalists. They are currently led by the very charismatic *ulama*, Tuan Guru Dr Ismail Lutfi, who studied in Saudi Arabia for nearly 15 years. The group he leads will be discussed in more detail below.

Three of the largest traditional *pondok* include Darus Sat in Saeburi, Patani (4,500 students) (Interview with Mahmud Saleh, Abdussama Duhai and Nimuhammad Waba, August 9th and 16th 2009), Sekolah Sasnupatam or Maa'hat At-Tabiyahin Muang, Patani

(2,500 students) (Interview with Drs. Hj. Ahmadkamae Waemusot, August 27th 2009), and Darussalam School in Narathiwat (5,500 students) (Interview with Ahmad Rusdi Boto, August 26th 2009). All implement the entire government curriculum for general education in the morning and evening, and in between provide special lessons for religious education or for the study of the Quran and religious texts using Malay language, written in Latin or Jawi script. By implementing the government curriculum, as private schools they receive an annual subsidy of 10,000 baht per student. This is in line with the central government program for free schooling, though government schools receive much larger subsidies. Thus, *pondok* are able to provide free schooling for students, and some like Darus Sat, even transport students to and from home for a small fee. The *pondok* has at least 35 large busses for this purpose.

The government subsidy is only for Thai language subjects, including religious education. But these *pondok* set aside part of the government subsidy to employ teachers to teach Arabic and Malay in Latin and Jawis cript. Although there clearly seems to be some flexibility in teaching Malay and Jawi script, the central government has still not allocated a special budget or formed a curriculum for these subjects, and thus *pondok* must compile the curriculum themselves.⁵⁰

According to Djusmalinar (Interview, August 20th 2009), the Malay teacher at Darus Sat and also a lecturer in Malay at the Prince of Songkla University, it is not easy to teach Malay because the language is primarily used for everyday communication and thus there are no formal standards, which must be set first. Djusmalinar, originally from Indonesia, explained that the formal Malay used in South Thai schools is adopted mainly from Indonesian and Malaysian, though it has not developed in South Thailand in the same way the languages have in Malaysia and Indonesia. Nevertheless, government universities in the South always offer studies in Malay. On the other hand, Interviewees related how subjects on local culture, such as the history of the Patani Kingdom, are still forbidden, especially

since 2004, but that *pondok* are able to indirectly introduce aspects of the history of the kingdom to students. These *pondok* are serious in setting aside funds and time to prepare and teach Islamic studies and Malay, including Jawi script. Students interviewed told how they were planning to prepare a subject on the history of the Patani Kingdom or of the three provinces of South Thailand.

Those *pondok* classed as separatist or rebellious are still traditional, whether they accept the government program or not. These *pondok* are naturally monitored much more tightly. Sapan, a *pondok* with 600 students in Tak Bai, about eight kilometers from Narathiwat city, was shut down by local authorities and all subsidies and permits were cancelled after it was deemed to have been involved in the insurgency in July 2007. The 600 students were forced to find new schools and accommodation, and the 63 teachers were unemployed until they found new jobs. "There was no transitional process, for instance, for staff or teachers. It was shut down, and for the last two years the government has made no kind of approach whatsoever," Zubaedah, one of the three directors, said.

As with other *pondok*, this *pondok* maintained traditional religious understandings and had accepted the government program in order to receive free education for its students. However, because one teacher was suspected of being involved in the insurgency and separatist movement, the entire *pondok* was shut down and the three primary directors were detained for 37 days (based on martial law and the Emergency Decree) after which there was no proof of their involvement. However, they still had to report to their parole officers for the last two years. They regularly appear before court, even today.⁵¹

Dr. Ismail Lutfi Patani's Religious Study Group

Dr. Ismail Lutfi Chapakia is the full name for the man who has published several books, including his dissertation, under the name Dr. Ismail Lutfi Patani. The 60-year-old man is self-taught and a gifted writer. He is a member of the third generation of the family

that established the Madrasah Ar-Rahmaniyah in Beraul, about ten kilometers from Patani city, and at the age of 16 had already written a book. By Year 9, he no longer wanted to be a student, but demanded of the directors that he be able to teach. He had, at this stage, already written several short books on the history of Muhammad and the four rightly guided caliphs, and they are still in print today. He read books from his parents, teachers, and postgraduate students who had returned from studying abroad. “Everytime someone returned home from studying abroad I would visit them and borrow their books,” he said. Of course, the directors of his parent’s *pondok* could not refuse his demands to teach. Then, when he was in Year 12, a man from Saudi Arabia visited the *pondok* with forms to apply for undergraduate scholarships. He applied, and was the only student from the *pondok* to be accepted. He encountered difficulties because he did not have the required graduation certificates for Years 9 and 12, but was eventually allowed to go. He spent nearly 15 years studying in Saudi Arabia until he obtained his PhD, and, he says, this was to change his life (Interview, September 1st and 3rd 2009).

His religious beliefs are perhaps most evident in his dissertation entitled “*Ikhtilaf Ad-Daaroen wa Atsaruhu al-Hukm al-Munakahat wa al-Mu’amalaat*.” Generally speaking, his 544-page thesis, published in Saudi Arabia but available in a number of stores in Yala, argues that there are only two kinds of states in Islam, “*Dār al-Islām*/ the Land of Islam” and “*Dār al-Ḥarb*/the Land of War.” Arguing against other writers, he contends that there is no “*Dār al-Ṣulḥ*/Land of Truce”. He discusses the implications of this on marriage laws and social interaction in Islam. In doing so, he Islamicizes political issues in his puritanical way, following Wahhabist trends in the Middle East, particularly Saudi Arabia.⁵² When questioned about the status of the Thai state, he says it is definitely *Dār al-Ḥarb*, but that there are two kinds of *Dār al-Ḥarb*, those that exist under a peace agreement, and those that do not. Thailand, he says, is currently one of the former (Interview with Ismail Lutfi Pathani, September 23rd 2009).

After returning home to Patani in about 1986, he first set about cleaning up what is categorized as *bid’ah* (heresy). However, unlike

the Wahhabis in Saudi Arabia and elsewhere who tend to use curses and violence, Ismail Lutfi used persuasion and friendship. According to one close student, H. Basyir Dullah Adam (Interview, August 29th 2009), Ismail Lutfi and his students, Basyir included, were excommunicated from the community because of their heretical and anti-traditional sermons and teachings. However, because of their soft and persuasive approach they were eventually accepted, despite maintaining different principles. "If someone attacked him, he would usually approach them in a sign of friendship and brotherhood," Basyir said. Working together with a number of traditional *ulama*, Ismail Lutfi's group runs a rather large Islamic financial institution known as Takaful Islam, its success signified by its luxurious offices in each of the three provinces.

Traditional Muslims, both those who accept the modern curriculum and those who maintain a traditional curriculum, often call Ismail Lutfi's group Wahhabi because of its puritanical tendencies that are seen as anti-traditional and heretic. The group not only has a *pondok* with a combined curriculum, but has also established a rather large university, the Yala Islamic University. It is currently the only private Islamic university in Thailand, with Dr. Ismail Lutfi Pathani as rector.⁵³ Ismail Lutfi, called Sheikh by his students, also leads thousands of congregants of mosques and various other religious groups. He himself teaches interpretation of the Quran every Saturday in his *pondok* in Patani and previously the Sunday religious gathering or study took place in an old building of the Yala Islamic University. He has now moved the Sunday classes to a new building. These sermons are attended by thousands, not including those who listen to radio broadcasts of the sermons in the five provinces of Satun, Narathiwat, Yala, Patani, and Songkhla. He has written no fewer than 50 books, most of which are shorter than 100 pages, which he has circulated to thousands of congregants. Most concern worship and society, some are transcripts from sermons and study groups, others he has written for specific purposes. Ismail Lutfi also holds an annual mass event of *i'tikaf* (meditating at the mosque) for the last ten days of Ramadan. Thousands of congregants cook, eat,

and drink outside their mosques. His own *pondok* mosque might hold up to 500 people, while the *imam* of other participating mosques, known as *murobbi*, hold their own *i'tikaf* in their respective mosques.

Ismail Lutfi claims that he was once listed as a Jemaah Islamiyah leader, higher even than Abu Bakar Ba'asyir. However, thanks to his close relationship with Thai Prince Somdet Phra Borommarasathirat Chao Fa Maha Vajiralongkorn, he was pardoned. Once, when the Malaysian Government stopped him from speaking at a university in Kuala Lumpur, relations between Malaysia and Thailand soured after the Prince jumped to his defense and telephoned the Malaysian Government. "Although I was eventually allowed to speak and was there ready to go, I decided to cancel rather than cause conflict between the two nations," he said. He is now very close with the kingdom and the central government, which appointed him *Amīr al-Haj* (Haj leader) for 2007 and 2009.

When asked for confirmation of accusations that he was a Wahhabi, Ismail Lutfi, who always dresses in long flowing white robes and Muslim head dress, replied that Ibn 'Abd al-Wahhāb was just an ordinary human, who could at times be correct, but who could also be wrong. "We follow what is true, and we avoid what is false," he said. He also did not reject adhering to a school of thought, but, citing the famous words of Imam Syafi'i, "*Idhā sahḥa al-ḥadīth, fa-huwa madhhabī* (any *hadith* considered to be true belongs to my school of thought)," acknowledged that it had to be based on the Quran and genuine *hadith*. Almost all his books contain arguments from the Quran and *hadith* on the perspectives and forms of worship considered true. In response to queries about rumors among his students suggesting that he refused to be appointed Governor of Patani and to become *Syeikh al-Islam* (the Sheikh of Islam) in Bangkok, he replied that nothing was ever clear. His unclear response parallels the government's equally unclear actions and propositions to end the violence and discrimination in South Thailand. "Nothing is ever clear, and the central government has never offered any form of resolution," he said with annoyance.⁵⁴

He continued to talk about the three options for the resolution of the Malay-Muslim issue in the South: freedom, autonomy, or to become a part of Thailand but with guaranteed freedom and equal rights. He aspires for the last of the three. "I have always wanted peace, but it needs to be with guaranteed freedom and equal rights. We have our own traditions and culture. I have often been approached by people from the central government, but not one has ever directly discussed resolution of the South Thailand problem," he said (Interview).

Peace Movement: Ahmad Somboon Bualuang

In his efforts to pursue peace, Ahmad Somboon Bualuang emphasizes that his struggle for mediation between groups, especially between the separatists/insurgents and the government (local and central). It is no easy thing to occupy such a position in the tense situation, some would say war, that is pervasive throughout South Thailand. Yet he does, for the sake of communication and understanding amongst the different parties. "They [the insurgents/separatists and the government] are unable to communicate directly at the moment, because they are both scared of each another, because of representation and so on," he said. In the time he has been a mediator he has lost two chauffeurs, each doubling as informal bodyguards, to unknown shooters. He now chooses not to have a chauffeur, driving himself around instead. The unique aspect to this 58-year-old man is that he has close relationships with a number of actors in the insurgency and separatist movements even though he himself does not agree with their violent methods that have recently become more random and arbitrary, with the bombing of streets and markets, and other public places. A former lecturer in the Faculty of Education of the Prince of Songkla University, he has been involved in NGOs working towards strengthening civil society through peaceful means since well before student demonstrations led to the 1997 constitutional amendment – a significant step towards democratization and decentralization. His

perseverance saw him appointed as a member of the NRC, formed under PM Thaksin Shinawatra's government to resolve the violent incidents of 2004. He was a representative for NGOs, religious leaders, academics, and politicians. This unique role also meant that he was often involved in meetings with insurgents and separatists, especially overseas, most often in Europe. He is considered to represent an independent voice that can communicate with, and is trusted by, the central government. Similarly, the government sees him as understanding the aspirations of insurgents and separatists because of his proximity with them, his ability to communicate with them, and the trust they place in him by inviting him to their meetings. He is currently the only expert that the Thailand Research Council has accepted as a consultant to comment on and to evaluate all research proposals of Thai universities related to South Thailand.

However, Ahmad Somboon Bualuang continues to be critical of the government. He feels the government has not done enough to bring the Malay-Muslims out of their backwardness caused by past repression and current government indifference and neglect of cultural and linguistic differences. The central government made Thai or Siamese the standard language when Malay-Muslims did not use or understand it. In the 1950s, at the height of Thai chauvinism the government even banned the display, practice, and use of Malay-Muslim culture and language. Although this has not been the case since the 1960s, there has been no policy to reverse it. There should, Ahmad said, be some sort of affirmative action to raise Malay-Muslims up to a level equal with the wider Thai community. "For as long as there is inequality, poverty, and injustice, it will be difficult to put a halt to the violence," he said. If there are no special policies, recruitment of civil servants or private employees will surely favor those who meet the standard. This is not to say that Malay-Muslims have to be given special treatment, but they do have to be empowered until they have abilities equal to the Thai majority.

Conclusion

Although repressive policies have only become more frequent since the violence in 2004 with the introduction of martial law, the Emergency Decree and military domination since the 2006 coup d'état, the struggle for justice and equal rights for the Malay-Muslims in South Thailand has shifted closer to the center, through the strengthening of civil society via legal processes, empowerment of the media, human rights, and of society's political awareness. Increasingly brutal violence has no place, and when public places, such as at bus terminals and markets, are targeted, insurgents and separatists tend to lose society's sympathy. It is necessary to understand that the increase in violence in public places is partly caused by the location of military posts and check points in Buddhist temples. Whenever separatists attack military personnel or posts the media reports the incident as an attack against Buddhism. There certainly are several cases in which Buddhist leaders were targeted, but this should not be overgeneralized. The placement of military posts and check points in Buddhist temples is not only dangerous and unwise, it further complicates the conflict, increasing inter-religious tensions and inviting increasingly brutal and uncontrollable violence in public places. The central government has increased the budget for South Thailand, however funding is more often than not allocated to maintaining security, as the assignment of 60,000 military personnel to secure less than three million civilians would indicate. Also, the budget for education, for the majority in the South, is only allocated for studies taught in the Thai language, and this includes Islamic education. The government has neglected to strengthen or promote Malay language and culture, which is a large part of the Malay-Muslim identity. The local government under the Chief Executive of the Patani Provincial Administration Organization, at least according to a Patani official, has already designed several programs for cultural empowerment, such as preparing teachers to teach at TADEKA, and to teach the Malay language and religious

education (in Malay). However, he has yet to secure a legal basis for the program, which is thus still considered a trial.

The government is not serious in applying the NRC's recommendations, which have been inspired by Malay-Muslim aspirations. The enormous inequality in recruitment of civil servants, especially to the military and police forces, is much cause for concern. If not resolved immediately, it raises questions about renewed tension and more violence. Besides the need for special attention in the form of affirmative action to increase the prosperity of Malay-Muslims in the South and to provide them with equal opportunities in the work force and in the economy, the central government also needs to help prevent such inequalities amongst Malay-Muslims themselves.

More opportunities need to be given to the educated, especially those educated overseas, to work safely in the three provinces, as neglecting them will lead to their unemployment, which runs the risk of pushing them to join the insurgents and the separatists. Finally, nations and states in the region need to constructively contribute ideas and help facilitate communication between Malay-Muslims in the South and the central Thai government as the sheer length of the conflict has meant that both parties are now unable to communicate smoothly in negotiating substantial issues. Some Malay-Muslims have close relations with the central government but are reluctant to talk about substantial issues because they feel that they have been betrayed and their aspirations neglected. A number of those Interviewed were hopeful that both the civil societies and governments of Indonesia and Malaysia would play a role in bridging this communication gap. These neighboring states need to understand the latest developments in the movement and its aspirations, and not rely purely on the traditionalists, both those in political parties and the bureaucracy or those who are insurgents or separatists (the newest actors in the social movement). Continual research into and assessment of the issue is vital for any kind of comprehensive and up-to-date facilitation.

Endnotes

1. South Thailand – also known as Southmost Thailand, Deep South Thailand, Far Southern Thailand or the Three Southern Border Provinces of Thailand – here refers to the three provinces which have been unstable since before Thailand became a constitutional monarchy in 1932. These provinces are Yala, Pattani and Narathiwat. South Thailand consists of 14 provinces, but only four, Yala, Pattani, Narathiwat and Satun, have Muslim majorities, three of which have experienced long periods of instability and violence. The Muslim population in Thailand is about 6% of the nation, but 90% of them live in the three Muslim majority provinces. See figures 1 and 2 in Michel Gilquin, 2005, *The Muslims of Thailand*, Bangkok: IRASEC and Silkworm, pp. 32 and 50.
2. These two topics, particularly after the series of violent events in South Thailand in 2003–2004, have been the focus of much literature, including books, published and unpublished research findings, publications with a limited distribution such as leaflets and so on. For a comprehensive discussion of the insurgency and separatist movements see, for instance, Danile J. Pajor Jr, 2005, “Lessons Not Learned: The Rekindling of Thailand’s Pattani Problem,” Naval Postgraduate School, Monterey, California, unpublished thesis. For an examination of the latest political, social, and religious movements see Duncan McCargo, 2009, *Tearing Apart The Land: Islam and Legitimacy in Southern Thailand*, Singapore: NUS Press.
3. See for instance, Chaim Gans, 2003, *The Limits of Nationalism*, Cambridge: Cambridge University Press, particularly pp. 7–66. Gans discusses the inadequacies of nationalism that is only based on geographical boundaries and does not consider the collective rights of cultural groups within those boundaries. This issue will be discussed further below.
4. Insurgency and separatism here must be differentiated from violence. Insurgency and separatism can be non-violent, and may, for instance, involve negotiation and political struggle. Almost all people condemn blind and arbitrary violence, except that with a cause, such as fighting against government-created paramilitary or armed guerrilla forces.
5. Antonio Gramsci, 2006, “State and Civil Society,” in Arachana Shama and Akhil Gupta (eds), *The Anthropology of the State: A Reader*, Victoria, Australia: Blackwell Publishing, pp. 75–76. See also Robert W. Cox, 2002, “Gramsci, Hegemony and International Relations: An Essay on

Method,” in James Martin (ed.) *Antonio Gramsci: Critical Assessments of Leading Political Philosophers*, Routledge: New York, pp. 360-361.

6. Nearly all informants shared these sentiments, from ordinary citizens to religious leaders and politicians, including senators, and even a vocal Buddhist spiritual leader, Sulak Sivaraksa. Interview, 28 September 2009.
7. Patani senator, Dr Warawit Baru, mentioned that the latest data obtained by research undertaken by the Prince of Songkla University shows that 87% of the population of the three provinces is Muslim, but 94% of civil servants are Buddhist and do not originate from the three provinces. This does not include the military forces present in the South, who are composed of a Buddhist majority and in general cannot speak Malay. Interview, 16 September 2009, Bangkok Parliament Building. However, there has been a change in recruitment between the provincial and district levels. While at the provincial level the Governor is still appointed by the central government and there is still much more accommodation for candidates from outside of the three provinces, key positions at the district level are often filled by locals, which then leads to greater recruitment of locals for other positions. See figures 3 and 4 in Wattana Sugunnasil, 2007, “Culture, Politics and Violence in Southern Thailand,” in Surichai Wun’Gaeo, *Rural Livelihoods Insecurities in Globalizing Asian Economies*, Bangkok: CSDS and SRI Chulalongkorn University, p. 129.
8. For a definition of ethnic nationalism, see David Brown, 1988, “From Peripheral Communities to Ethnic Nations: Separatism in Southeast Asia,” *Pacific Affairs*, Vol.61, No. 1, Spring, pp. 51-77.
9. The Patani Kingdom was the last kingdom to control the area that at the time was known as ‘Patani Raya’ (Greater Patani) or ‘Semenanjung Malaya’ (the Malay Peninsula). The Kingdom spanned what is today seven Thai provinces, four of which were Muslim majority provinces in the southernmost part of Thailand, namely Narathiwat, Patani, Yala, and Satun. The Kingdom also encompassed several Malaysian states, currently known as Kelantan, Trengganu, Kedah and Perlis. See Ibrahim Syukri, 2005, *History of the Malay Kingdom of Patani*, translation by Conner Bailly and John N. Miksic, Athens: Ohio University Press, especially Chapter II, pp. 17-49. In the Siam/Thai language, ‘Patani’ is written and pronounced with a double ‘t’, ‘Pattani’. This difference is yet another element in each party’s claim to the area.
10. The name of the kingdom was ‘Siam’ before it was changed to the Royal Thai Kingdom (in 1939). It controlled the same area it does

today minus the area currently known as South Thailand, until its later incorporation in 1901. Chris Baker and Pasuk Phongpaichit, 2005, *A History of Thailand*, Cambridge: Cambridge University Press, pp. 26-104.

11. Generally speaking, in the collective memory of the Malay-Muslim elite in South Thailand, the English colonizers initially promised independence for the areas of the former Patani Kingdom that had been annexed by the Kingdom of Siam because they had sided with the English against the Kingdom of Siam and the Japanese, ally of the Kingdom of Siam during WWII. However, the English failed to fulfill its promise, or consciously betrayed it after being given a massive concession in the form of a railway project from Bangkok to South Thailand, thousands of tons of rice when Siam had plentiful crops to be given to English-occupied peoples who were experiencing economic depression, and four new regions which are now part of Malaysia, forming the border with South Thailand. For these Malay-Muslims, the English colonizers are most responsible for their suffering because they betrayed their promise, to the extent that the Malay-Muslims feel they were just a bargaining tool used by the English in negotiations with the Kingdom of Siam. A senior Malay-Muslim figure showed me the original treaty between the UK and the Kingdom of Siam that made the English betray their promise to help South Thailand gain independence from the Kingdom of Siam's occupation.
12. Surin Pitsuwan, 1985, "The Lotus and the Crescent: Clashes of Religious Symbolism in Southern Thailand," paper prepared for the *Asian Regional Meeting Workshop on Ethnic Minorities in Buddhist Polities Sri Lanka, Burma and Thailand*, 25-28 June, Bangkok, Chulalongkorn University, unpublished, pp. 1-9.
13. For a discussion of the *Sangha's* profile, history, its relationship with the government and its position in Thai society, see Yoneo Ishii, 1993, "*Sejarah Sangha Thai: Hubungan Buddhisme dengan Negara dan Masyarakat* [The History of Thai Sangha: Buddhism's Relationship with the State and Society]," Malay translation from Japanese by Mohamed Yusoff Ismail, Kuala Lumpur: Penerbit Universiti Kebangsaan Malaysia.
14. According to analysts, King Vajiravudh's three pillars were copied from the British slogan 'God, King, and Country' popular during the time of European nationalism. Erik Cohen noted in regard to this 'three pillar' concept, that King Vajiravudh was the first educated king who had also studied in England. Although the concept seems

- to be little more than an imitation from the West, more precisely from the UK, it has its own in-depth understanding of Thai (Siam) society. It is also not rigid, unlike the relationship between the people, state or government, and religion in Europe. See Erik Cohen, 1990, "Sovereignty, Nationality and Religion: A Study of Politics and Religion in Thailand", *The Research Final Report*, Jerusalem, The National Research Council of Thailand, Bangkok, unpublished, pp. 5-7. Keyes, *Thailand: Buddhist Kingdom*, pp.140-141.
15. Surin Pitsuwan has comprehensively examined the Islamic cosmology that applies to Muslims in South Thailand and which is diametrically opposed to the cosmology of Thai Buddhism, and how it is one major obstacle to complete and real integration of the Thai state. See Pitsuwan, *Islam and Malay Nationalism*, pp. 8-12. See also Pitsuwan, "The Lotus and The Crescent".
 16. A total of three months was spent in Thailand for research, from July to September 2009. The first month was spent exploring available literature, taking advantage of the rich academic resources at Chulalongkorn University in Bangkok, and meeting a number of researchers and professors on campus. The third month was also spent in Bangkok rechecking the literature and confirming facts with researcher and professors, as well as Buddhist and Muslim religious figures. During these two months, I lived in an apartment on campus at Chulalongkorn University. In general, people interviewed from traditional and modern *pondok*, religious officials, and ordinary citizens in South Thailand were unwilling to be recorded and wished to remain anonymous.
 17. 'Patani' here refers not to one of the four Muslim majority provinces of South Thailand (Narathiwat, Yala, Patani, and Satun) or to one of the three provinces that still resist a unified Thai state (Narathiwat, Yala or Patani). Rather, it refers to the Patani Kingdom of the past, that encompassed Greater Patani/The Malay Peninsula, which in addition to the four Muslim majority provinces of South Thailand also included several other provinces with large, but not majority Malay-Muslim populations, such as Songkhla, Satun, Jalu, and Jambu, and also the Malaysian border provinces of Trengganu, Kelantan, Kedah and Perlis. Interview with Abdurrahman Daud, 8 and 16 August 2009.
 18. Haji Abdurrahman Daud (61), a pensioner and voluntary teacher at a *pondok*, is a diligent reader and writer who has mastered Arabic and French, and a little English after studying languages for ten years in Aljazair. Even today he claims to keep up with the latest world news by watching television. He reads many books on revolution, from

those that happened in South America, Europe, the Soviet Union, China, to those in Asia.

19. For a further discussion on this see Mahmoud, *Sejarah Perjuangan Melayu Patani*, pp. 23-30. This policy is still largely in effect today. Only during the last two years has the governor of Yala been a Muslim, but he was still appointed by the central government and thus most of the elite in Yala regard him as a pro-center Muslim governor.
20. *Ibid.*, p. 76. Emphasis added, author's translation from the Malay.
21. *Ibid.*, pp. 80-81. Author's translation from the Malay.
22. Interview with a key employee of the Islamic Council of Yala, 20 August 2009. Only this year has the government given the council a new building on a larger piece of land for a new and largely representative office. However, this was only for Yala and Patani, and the other provinces have not, or not yet, been given new offices. See also Mahamasake Cheha, 1998, "The Administration of Islamic Family Law and Inheritance in Southern Thailand (Pattani, Narathiwat, Yala and Satun)", International Islamic University, Malaysia, unpublished dissertation.
23. The compilers of the *kitab kuning* in Arabic and in Malay in Jawi script are discussed quite comprehensively in Virginia Matheson and M.B. Hooker, 1988, "Jawi Literature in Patani: The Maintenance of an Islamic Tradition," *Journal of the Malaysian Branch of the Royal Asiatic Society*, Kuala Lumpur.
24. TADEKA are centers for pre-school and primary school religious education. Almost every mosque in South Thailand has a TADEKA, and they are very traditional. Students study religious education in Malay. Thus, there are at least three main centers in which Malay is preserved: TADEKA, *pondok*, and the family. It should be no surprise that both Malay language and Islam are an integral part of the Malay-Muslim world, and as such, inseparable from it.
25. An Indonesian lecturer in Malay Language at the Pattani Campus of the Prince of Songkla University mentioned that the Malay of South Thailand was still spoken quite well, especially within the family and when studying religion. Parents and children below the age of 13 still use Malay, except in government schools. Meanwhile, teenagers are less likely to use Malay because there is a lot of vocabulary, especially modern terms, not available in Malay. Interview with Djusmalinar, 21 August 2009. See also Djusmalinar, 2009, "*Generasi Penutur Bahasa Melayu di Thai Selatan* [The Generation of Malay Speakers in South Thailand]," *Dewan Bahasa*, July, pp. 32-34.

26. According to Jeff Upward, quoting from Erikson, the Malay-Muslims have four different kinds of demands of the central government: (1) to be recognized and accepted as a respected minority, that has always been culturally different from the Thai mainstream, and as a result needs autonomy within the Thai state; (2) to have their own completely independent state, based on the historical domain of the Sultanate present before colonialism; (3) unification with the Malaysian Federal States; (4) incorporation of the South Thai states into a Pan-Islamic State, an ideology inspired by the terrorist group Jama'ah Islamiyah. Jeff Upward, 2006, "Insurgency in Southern Thailand: The Cause of Conflict and the Perception of Threat," November, <http://www.ballarat.edu.au/ard/bssh/school/capstone/Jeff/%20upward.pdf>, p. 8. Accessed in hardcopy from the Chulalongkorn University library, number 72072.
27. Scupin, "The Politics of Islamic Reformism in Thailand," pp. 1223-1235. Compare with Andrew D.W. Forbes, 1982, "Thailand's Muslim Minorities: Assimilation, Secession, or Coexistence?" *Asian Survey*, Vol. 12, No. 11, pp. 1058-1073. It is necessary to note that almost all analysts conclude that there is no relationship between the insurgency/separatist movement in South Thailand and Islamic fundamentalism or global terrorism.
28. The term 'ultra nationalist' is used by Surin Pitsuwan to describe Prime Minister Marshal Phibul Songkhram's policies on nationalism and the Thai national assimilation policy applied since 1938, which led to the establishment of the military dictatorship. Elsewhere, Pitsuwan also uses the term 'Thai chauvinism'. See Pitsuwan, *Islam and Malay Nationalism*, p. 86.
29. Acknowledged in an NRC (National Reconciliation Commission) report, the NRC having been formed to investigate and make recommendations for resolving the 2004 violence.
30. Haji Sulong was, at the time, Governor of Patani and director of the Ulama Council for the three provinces. He led the petition for the seven demands of self-determination. Initially, the petition did not demand independence for the three provinces. Today, Haji Sulong is considered a hero and inspires almost all movements in South Thailand, whether they work within political parties and the bureaucracy, whether they are insurgents or separatists, or whether they are active in social movements or civil society organizations.

31. The seven objectives are:
1. The appointment of a high commissioner to govern the Greater Patani Region with full authority to dismiss, suspend, or replace all government officials working in the area, the individual must be elected by the people in a general election held for that specific purpose;
 2. Eighty percent of civil servants in the four provinces to be Muslims;
 3. Malay and Siamese to be official languages;
 4. Malay to be taught in primary schools;
 5. Muslim law to be applied in the region with separate Islamic courts independent from the government's judicial system;
 6. All revenues collected in the region to only be expended for the welfare of the people in the region;
 7. The Provincial Islamic Council to be given full authority over Islamic legislation on all Muslim affairs and Malay culture under the supreme authority of the high commissioner referred to in objective 1.
32. According to Chia-anan Samudavanija, political expert from Chulalongkorn University, Phibul only had the cabinet meet for ten minutes to change the state's name from the Kingdom of Siam to the Thai Kingdom, in a move that would cause much suffering. In the final three minutes of those ten minutes, he had yet to obtain unanimous support, but no matter, the decision had been made. See Chia-anan Samudavanija, 1991, "State-Identity Creation, State-Building and Civil Society," in Craig J Reynolds, "National Identity and Its Defenders Thailand, 1939-1989", Victoria, *Monash Paper on Southeast Asia* No. 25, Monash University, p. 62.
33. Interview with Ahmad Somboon Bualuang, 6 August 2009. Somboon is a senior activist living in Patani, who was a member of the NRC after the April 2004 tragedy, and now works as a government advisor on South Thailand, at the Thailand Research Council.
34. The term 'bandit' was used as early as during the English occupation to insult Muslims in the former area of the Patani Kingdom. During the occupation, the term referred to drug dealers, drunks, and Chinese gamblers in the area. Then in the 1950s-1970s it was associated with communism and was also aimed at Malay-Muslims, especially the separatists who were killed by the government of the Thai Kingdom. See Upward, "Insurgency in Southern Thailand".

35. According to analysts, only two provinces, Bangkok and nearby Pattaya, have already implemented the decentralization law. The rest yet have to do so, despite the ten years that have elapsed since it was introduced in 1997, and despite the finer adjustments made, especially in the 2002 and 2007 constitutional amendments. See Chandra-nuj Mahakanjana, 2006, "Decentralization, Local Government, and Sociopolitical Conflict in Southern Thailand," Washington, *East-West Center*, unpublished, p. 14. See also "Dialogue on Implementing the Local Government Provisions for the New Constitution in Thailand" organized by the *King Prajadhipok Institute (KPI)*, 11-13 December 2007, Chaophya Park Hotel, Bangkok, pp. 58-101.
36. Charles Keyes, 2006, "The Destruction of a Shrine to Brahma in Bangkok and the Fall of Thaksin Shinawatra: The Occult and the Thai Coup in Thailand of September 2006," *Asian Research Institute*, Singapore, unpublished, p. 18.
37. Wan Muhamad Noor Matha was on the political black list for five years, along with more than 100 other TRT leaders, as a part of the Thai Supreme Court's suppression of Thaksin's party. For a brief history of his life and time in politics, see Duncan McCargo, 2009, *Tearing Apart the Land: Islam and Legitimacy in Southern Thailand*, Singapore: NUS Press, pp. 75-80.
38. For an account of the success of the Wahdah group in the Islamic and Malay-Muslim struggle, see Doromae Paseloh's (Director of Islamic and Asian Studies at the Center for Humanities, Malaysian Science University) "Kumpulan Wahdah dan Pembangunan Islam di Selatan Thailand [Wahdah Association and the Development of Islam in South Thailand]", paper presented at *Seminar Pembentangan Kajian Ilmiah Pengajian Islamdan Pengajian Muslim [Academic Workshop on Islamic and Muslim Studies]*, Islamic College, Prince Songkhla University, Pattani Campus, 18 August 2009, unpublished.
39. Several observers suggest that the restructuring of the security handling apparatus in the three provinces, which had been under two well-established institutes – the Southern Border Provinces Administrative Center (SBPAC) and Civilian-Police-Military Command 43 (CPM 43) – in which the military was all powerful, was one cause of the tension and violence that continued throughout 2003–2004 in the South because the military felt marginalized. Thus, the violence of this period was a combination between opportunities taken by insurgents and separatists on the one hand, and by the security apparatus, especially the military, on the other. For more on this, see Marc Askew,

- 2007, "Conspiracy, Politics, and a Disorderly Border: The Struggle to Comprehend Insurgency in Thailand's Deep South," Washington, *East-West Center*, Policy Studies 29 (Southeast Asia), especially pp. 38-41.
40. Interview with Dr Srisombop Jitpiromsri, 14 August 2009. Srisombop is founder and prominent figure of DSW (Deep South Watch) and director of the Center for South Conflict and Diversity (CSCD). He teaches now that he is no longer Dean of the Faculty of Humanities and Social Sciences at the Prince of Songkla University, Pattani Campus.
 41. Interview with Chaiwat Satha-Anand, 28 September 2009. See also Chaiwat Satha Anand, 2009, "Untying the Gordian Knot: The Difficulties in Solving Southern Violence," in John Funston (ed.), *Divided Over Thaksin*, Singapore: ISEAS, pp. 96-109.
 42. McCargo, *Tearing Apart the Land*, pp. viii-1. Several analysts, including McCargo, point out that military involvement in the violence was a result of the transfer of responsibility for security from the military to the police. Nevertheless, the insurgents and separatists did indeed have their own plans and agendas.
 43. Report of the NRC, "Overcoming Violence through the Power of Reconciliation", 16 May 2006, (Unofficial Translation to English), pp. 9-10. See also Chaiwat Satha-Anand (ed.), 2009, *Imagined Land? The State and the Southern Violence in Thailand*, Research for Languages and Cultures of Asia and Africa (ILCAA), Japan.
 44. According to most, before the events of 2003–2004 there had been almost no development in the government's treatment of Malay-Muslims in the South, and no international attention, either from international institutions, ASEAN countries or other Muslims in the archipelago. See figures 5 and 6 for more on the escalation of violence in 2004. Figures taken from Wattana, "Culture, Politics and Violence", p.127.
 45. It is necessary to note that Yala, the largest province in South Thailand, only has a population of 500,000–600,000. The historical division of Patani into seven provinces was intended to weaken the Muslim struggle in the region.
 46. See the MAC profile at <http://www.macmuslim.com>, accessed 26/08/2009.
 47. Volunteers in the three cities include women from the Islamic Law or Syariah Faculty of the Islamic College, Prince of Songkla University.

“I want to study ‘Siameses *hari’ab*’ too,” said Muallimah, a final year student studying *shari’ab* who volunteers at MAC. She explained that she was not afraid of being involved with MAC, although it would make it hard for her to find work in the government. Most students, she continued, were reluctant to work in the government because of its discriminative nature.

48. See the official MAC website at http://www.macmuslim.com/index.php?option=com_content&view=article&id=11&Itemid=10&lang=en.
49. One director of a relatively large *pondok* related how a Malaysian investor tried to establish a print media organization in the Malay language. He printed 10,000 copies of the first run but because he had not sought permission from the government they were never circulated. Interview, 27 August 2009.
50. According to the Chief Executive of the Pattani Provincial Administration Organization, Syed Abdulnasir Al-Jufree, there is now some flexibility for local governments to compile budgets that meet local needs, especially for religious development, which includes increasing religious education and Malay studies in schools. He is currently preparing a Malay language course for schools by designing curriculum and training prospective teachers who will later be placed in public and private schools. Interviewed in his office, 2 September 2009.
51. Interview with the three primary directors of the now derelict Sapan *pondok*, Tuan Guru Husein Nuh, Tuan Guru Abdus Somad, and Zubaedah, each of whom are on parole, 24 August 2009. Nevertheless, Zubaedah (36) is now a provincial coordinator of a victims’ network which also networks with the women’s movement, the human rights movement, and the media. On the day he was interviewed, Pangarat, a human rights activist in Bangkok who had taken the case, had just received permission from the government to reopen the *pondok*. However, he said, it would take time for the *pondok* to restart operations and to receive government subsidies again. In any case, the three main directors of the *pondok* are still on parole. Interview with Pangarat, 24 August 2009.
52. Dr. Ismail Lutfi said that after completing his exams, his examiners immediately suggested that his dissertation be published as it contained important findings. It was, however, only published in 1990 by Darus as-Salam in Mecca.

53. Ismail Lutfi related how he had dreamed about setting up a university since studying in Saudi Arabia in the 1970s. Cosequently, he works very diligently, managing it alone. The university, he declared, did not receive much funding from the Thai government, rather most came from governments in the Middle East thanks to his wide lobbying.
54. One assistant who is very close to Ismail Lutfi, and is also a political expert, said that Ismail Lutfi was once formally approached by a team from the Prime Minister's office to speak about how to resolve the violence and other issues in South Thailand. However, as the meeting concluded and the team started to leave, one turned back and whispered to him, "Don't be serious ustadz, 80% of military personnel don't agree with that solution," the assistant said, imitating the team member's whisper. Interview 29 August 2009.

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Ahmad Somboon Bualuang, August 6th 2009. Somboon is a senior activist living in Patani, who was a member of the NRC (National Reconciliation Commission) after the April 2004 tragedy, and now works as a government advisor on South Thailand, at the Thailand Research Council (TRC).

Dr Srisombop Jitpiromsri, August 14th 2009. Srisombop is founder and prominent figure of Deep South Watch (DSW) and director of the Center for South Conflict and Diversity (CSCD). He teaches now that he is no longer Dean of the Faculty of Humanities and Social Sciences at the Prince of Songkhla University, Pattani Campus.

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CHAPTER V

ISLAM AND MINORITIES: MANAGING IDENTITY IN MALAYSIA

Introduction

The current wave of democratization and globalization that has spread throughout the world has also brought to attention the position of minorities (Kymlicka, 1995; Parekh, 2000). New ideas concerning nationalism and national identity have emerged (Watson, 1990), not only in non-democratic but also liberal democratic countries (Peleg, 2007; Gans, 2003). These ideas can be traced back to the 1970s and 1980s when several minority nationalist movements emerged, particularly in authoritarian and communist countries. They successfully demanded independence, self-determination and self-governance or at least equal treatment (Watson, 1990; Peleg, 2007). A number of Muslim minorities in Eastern Europe (the former Soviet Union) and in the Balkans (former Yugoslavia) underwent such an experience, as with those in liberal democratic countries such as France and England (Poulton and Taji-Farouki, 1997; Eminov, 1997). Things developed quite differently for many minorities in Muslim majority countries or Islamic states (Bengio and Ben-Dor, 1999; Nisan, 2002; Shatzmiller, 2005).

In the 1950s and 1960s little attention was paid to minority groups in democratic countries and even less to those in communist ones. While minority movements in communist states emerged out of oppression and authoritarianism, in liberal democratic states such movements were a result of democratic systems that promoted individual rights to such an extent that collective and community rights were neglected (Ibid.).

Malaysia is a nation that has always been multiracial, multicultural and, in the words of some, an immigrant state (Daniels, 2005; Poulton, 2000; Peleg, 2007). It is home to many immigrants,

largely Chinese and Indian, although many Malays also come from countries like Indonesia, and more recently the Philippines (Daniels, 2005: 42-47). Due to similarities in history, culture, religion, language and skin color, the latter have easily assimilated to the single Malay or *Bumiputera* ethnic identity and religion. This has not been the case for Chinese and Indian immigrants. There are many other groups, including those of Portuguese descent and the indigenous peoples of Sabah and Sarawak both of which groups fall into the *Bumiputera* category (Daniels, 2005; Faruqi, 2005: 42).

Despite such diversity, Malaysia has formally declared Islam the official state religion with *Yang di-Pertuan Agong* (the King) as Head of the State and also a symbol of Islam (Article 53 of the Federal Constitution) (Ibid.: 43). The Constitution states that all citizens are equal before the law, and guarantees their right to adhere to a religion. Nevertheless, the Constitution clearly places the Malay/*Bumiputera* category before all others with the King responsible for ensuring that this be the case. Article 153 (1) reads, "It shall be responsibility of the *Yang di-Pertuan Agong* to safeguard the special position of the Malays and natives of any of the states of Sabah and Sarawak and the legitimate interests of other communities..." (Ibid.). The management of ethnic difference and minorities in Malaysia is just one possible representation of society and Muslim governance in the context of a multiracial and multicultural society.

Historically Islam has always had a concept for managing minorities, as is apparent from its discourse on *dhimmis* (non-Muslims in the land of Islam) and *harbi* (non-Muslims in the land of non-Muslim/*kafr*) which refers to the division in Islamic law between *dar al-Islam* (the land of Islam) and *dar al-harb* (the land of non-Muslim). Islamic concepts addressing minorities, both Muslim minorities in non-Muslim states and non-Muslim minorities in Muslim majority states, have existed since the time of the Prophet Muhammad, and were continually developed throughout the expansion of the Islam, the establishment of Islamic kingdoms including the multinational Ottoman Empire in Turkey, right up until today.¹ It is fascinating to

study just how an Islamic state treats minorities in the context of the nation-state in the contemporary world. This paper examines the empirical reality in Malaysia, the plurality and multiculturalism as well as the position of minorities. However, it does not approach the issue through the lens of Islamic law (*sharia*) as is often the case.² This approach, to borrow Mohamed Arkoun's words, tends to lead to a dead end, trapping scholars in a debate about the (non) separation of religion and the state and the nonexistence of a concept of state in Islam (Arkoun, 2002). Taking an empirical approach, this paper hopes to avoid judgmental attitudes, allowing us to better examine justice and social friction and how they influence economic distribution and division of political power.

The reality in Malaysia illustrates the complexity of the situation. What are the consequences of Malaysia, a nation-state in the form of a constitutional Islamic monarchy, developing and managing a concept addressing multiculturalism, multiracialism and minorities? It is hoped that this discussion contributes to intellectual studies on the Islamic experience of modern Muslim societies and their dynamics, specifically in the case of Malaysia. This is by no means a success story about change, rather it is about significant criticism being levelled against a system that has been well established, hegemonic even, for more than 50 years during which it has never been challenged in a meaningful way. It may well be that this develops into a trend in the future in accordance with changes occurring elsewhere in the world.

A Changing Malaysia: from 'Bumiputera Supremacy' to 'People's Supremacy'

For the first time ever, in the general election on 8 March 2008 the ruling party, BN (Barisan Nasional, National Front), which had been in power for more than 50 years was dealt a serious blow by the opposition, which managed to secure a significant percentage of the vote. BN failed to obtain a two-thirds majority in the central parliament (a target it has almost always fulfilled), and lost control

of four of 13 states. BN consists of at least four main parties that reflect ethnic difference: UMNO (the United Malays National Organization) representing ethnic Malays; MCA (the Malayan Chinese Association) and the multiracial PGRM (Partai Gerakan Rakyat Malaysia, Malaysian People's Movement Party), both of which are largely supported by the Chinese; and MIC (the Malaysian Indian Congress) representing Indians. It also includes several smaller parties, local to Sabah and Sarawak. Whereas the opposition, the new coalition BA (Barisan Alternatif, Alternative Front), later known as PR (Pakatan Rakyat, People's Alliance), consists of three parties: PKR (Partai Keadilan Rakyat, People's Justice Party) which is multiracial but tends to be dominated by Malays; DAP (the Democratic Action Party) also multiracial but tending to be dominated by the Chinese; and PAS (Partai Islam se-Malaysia, the Pan-Malaysian Islamic Party) which is based on an Islamic ideology and is almost entirely supported by Muslim Malays.

For comparison, in the 2004 election BN secured a record percentage of seats (91%) in the central parliament and maintained control over all states with the exception of Kelantan which has been under PAS leadership since 1990. In the same election PKR only secured one seat in parliament. Thus, in winning only 63.1% of seats in 2008 not only did BN lose the two-thirds majority in parliament, but PKR alone increased its representation from one to 31 seats, with the opposition in general securing 36.9% (up from 9% in 2004). BN also lost four states, in addition to Kelantan, with Penang, controlled by ethnic Chinese for the last half century, falling into the hands of DAP, and Kedah and Perak joining Kelantan as PAS-controlled states (though Perak recently had control of its local parliament usurped in a less than elegant manner by BN). Selangor, the central state home to Malaysia's capital city Kuala Lumpur, and as such the richest and most strategic of states, fell under PKR control.³ In addition, PKR took all five central parliament seats in the Federal Territory, but was unable to seize the position of mayor because it is appointed by the Prime Minister, a position still under

UMNO-BN control.⁴ What is interesting is that the PR coalition was able to win a phenomenal⁵ percentage of votes because they offered a new concept of managing interethnic relations and minorities, which had, up until this point, been monopolized by BN. Originally known as the NEP (New Economic Policy) in 1971, BN's concept was further developed by Dr. Mahathir Mohamad in 1990 to become the NDP (New Development Policy) and then, in 2000, the NVP (New Vision Policy) otherwise known as Vision 2020. The 1990 change was implemented after the end of the 20-year time frame set by the original 1971 NEP had passed and it was found that the policy had failed to see *Bumiputera* increase their control of the national economy to 30 percent, from the mere 1.7% they controlled in 1971. It was clearly a concept that gave protection to and often involved affirmative action on behalf of Malay or *Bumiputera* citizens over immigrant ethnic groups, especially the Chinese, as the Malays/*Bumiputera* were considered economically disadvantaged. While the NEP was rather general and oriented towards villages and agrarian society, the NDP placed more focus on industrial and urban development (Gomes 2005) BN still intends to implement the policy as it has yet to reach its target. In fact, it has been 40 years since the policy was formulated, twice the intended time frame, but still less than 20 percent of Malaysia's economy is controlled by indigenous Malays (Ibid.).

Anwar Ibrahim, leader of PR, offered a 'New Economic Agenda', arguing that the NEP/NDP/NVP and the policy of Malay or *Bumiputera* Supremacy was no longer appropriate if Malaysia wanted to compete on both a national and international scale in the current era of democratization and globalization. On the national scale, inequality amongst ethnic groups, especially amongst the Malays/*Bumiputera* has only increased. Many Malays have indeed benefited enormously from the policy, with the latest official government data indicating that they control around 19 percent or more of the economy. However, Anwar explains, this wealth finds its way largely into the hands of the elite, and the

majority of Malays are left with slimpickings, if anything at all. This economic inequality between the rich and poor is much larger amongst the Malays than amongst the Chinese or the Indians, though there is much cronyism amongst all elites within BN. This kind of policy and political system, according to Anwar, means that the competitive ability of the Malays/*Bumiputera* and Malaysia in general is very low because the elites within BN use their power irresponsibly to serve their own interests. According to Anwar such unhealthy competition has ultimately caused Malaysia to lose its competitive ability internationally, in Asia, and more specifically in Southeast Asia. Malaysia, which began development at the same time as Singapore, South Korea, Taiwan and Hong Kong, has been left far behind in terms of economic growth, social security, anti-corruption and especially democracy, which can be measured from the extent to which freedom of opinion and freedom to associate with others is guaranteed. Thus, he continues, Malaysia must exchange its policy of Bumiputera Supremacy with fair competition through meritocracy, open tenders and healthy democracy. The backwardness of the Malays/*Bumiputera* can no longer be viewed purely in terms of Malay ethnicity or a Malay 'ethnic approach', but must be seen objectively in terms of the relationship between rich and poor. Affirmative action must be channeled towards all who require it. Malays, Chinese and Indians each have the same problems of poverty and inequality, and as such these problems must be seen as universal. Anwar thus proposes the concept and slogan 'People's Supremacy' to replace 'Malay/Bumiputera Supremacy'. Political recruitment and state projects must be fair, with open tenders that do not favor certain ethnic identities. Malay, Chinese and Indian members of the BN elite can no longer benefit at the expense of non-BN Malays, Chinese and Indians.⁶

It is clear then that the large number of votes that PR secured in the 2008 election (DAP 12.6 %, PAS 10.4 % and PKR 14.0%) represents a demand for reformation of the way in which multiracial relations and minorities are managed (Saravanamutu, 2008: 53). In

contrast, the chairman of BN's MIC party failed to secure any seats in parliament,⁷ even though no party in the opposition coalition officially represented the Indian vote. Most Indian voters were disillusioned enough after voting for MIC in BN for 50 years only to be ignored under the policy of Malay/Bumiputera Supremacy that they shifted their support to Ibrahim's PKR, even though there is no party in the coalition that officially represents the Indian voice (Saravanamutu, 2008: 53).

Nevertheless, a number of scholars and analysts have noted how several new Indian parties that are independent of MIC have emerged recently, trying to take control over the Indian vote from UMNO (Interview with Chandran, 15/12/09). It seems voters are no longer satisfied with symbolic representation based on ethnic lines, but are now demanding real results such as substantial economic redistribution. The majority of Chinese also seem to prefer meritocracy and open competition, to the extent that MCA, formally representing ethnic Chinese in the BN coalition, has also experienced a decline in support. PGRM or Gerakan, the other party largely supported by Chinese, had controlled Penang for decades, only to lose it to DAP in 2008. DAP has, at least in Penang, implemented a vision consistent with PR's stance (Interview with Othman, 19/12/09).

Of course, the offer of meritocracy and open tenders was not the only factor leading to PR's phenomenal success. Current changes are clearly linked to demands for reformation voiced as early as 1998/1999, at a time when reformation was taking place in other countries in the region such as Indonesia and Thailand. The unfair treatment of Dr. Anwar Ibrahim by PM Dr. Mahathir Mohamad, which saw the former expelled from UMNO and the government and later thrown into jail, garnered further support for reformation.⁸ At the same time demands were made to remove the draconian acts that threatened reformists, activists and demonstrators and were used to control Anwar and his sympathizers.⁹

Another factor in PR's success was the inconsistency and weakness of PM Abdullah Badawi's leadership. More commonly known as Pak Lah, he replaced Dr. Mahathir Mohamad in 2003, but failed to fulfil election promises for reformation after his win in 2004. Some of the more important policies he promised included openness, eradication of corruption and increased transparency in institutions, especially within the police force. In practice however, his government still enforced the ISA (Internal Security Act) which allowed people to be detained without sufficient evidence for 30 days, even though most civil society movements critical of the government demanded that it be annulled (Ibid.). Pak Lah only pretended to annul the legislation, while continuing to enforce it very effectively, along with the draconian acts, to allow him to keep Anwar Ibrahim in jail. Eventually however, not long before the 2008 election, Anwar Ibrahim was released and was free to contest the election.¹⁰ Similarly, promises to reform the police force were not kept due to demands from the political elite and police that Pak Lah could not refuse (Ibid.).

While the press did have some freedom during Pak Lah's term, no significant advances were made. Independent mass media and the opposition party experienced many difficulties, and were subject to government intervention (Interview with Omar, 3/12/09).¹¹ Freedom of the media is still very limited today. Electronic and print media continue to have to apply for permits and even today barely any independent media companies manage to obtain these permits, with the exception of online media as it has not yet been legally regulated in Malaysia (Interview with Prem, 15/13/09). These anti-democratic policies helped raise the popularity of Anwar Ibrahim, PKR and the PR alliance.

Another internal factor was the falling out between Pak Lah and Mahathir that came to a head in the lead up to the 2008 election. The split was so serious that Mahathir even announced his resignation from UMNO and demanded that Pak Lah resign as PM and president of UMNO.¹² Advocates of reformation

criticized Pak Lah as not being firm enough and not realizing his reformation promises. Meanwhile Malays and those from UMNO regarded him as being too weak, both because he released Anwar and because of his 'Islam Hadhari' concept¹³ which they felt did not side strongly enough with the Malays. However, Pak Lah's policies and actions represented a middle path in response to PAS's critique and the PAS-UMNO struggle to win over the Muslim-Malay vote, the image of Malaysian Islam on the international stage, and the spirit of change within Malaysia. According to Professor Osman Bakar (Interview), deputy CEO of IIAIS (International Institute for Advanced Islamic Studies), the think tank established by Pak Lah that was responsible for introducing the Islam Hadhari concept, the concept was presented to the PM as a serious way in which to address the Malaysian crisis, allowing Malaysia to play a larger role on an international level and more specifically in the Muslim world. UMNO, the power behind the government, he explained, accommodates two large NGOs, one representing multiracial and multicultural demands (Aliran), and the other voicing equality of women and pluralism in Islam (SIS, Sisters in Islam) (Badawi, 2007: 130).

Pak Lah has also described Islam Hadharis as a response to Islamic parties, especially PAS which tripled its representation in 1999, but noted that the concept also had to deal with demands from his own party to take more conservative measures against PAS and other Islamic parties. Pak Lah (Ibid.: 138) said:

During the General Election in 1999, the Islamic party saw its biggest gains ever. It tripled its representation in parliament and took control of an oil-rich state. Faced with a strengthened Islamist opposition, some in my party – which promotes an inclusive and progressive Islam – had thought that we had to become more Islamist than the opposition. This was of course, a very dangerous slippery slope. I believe that Malaysian political choices were influenced to some extent on the issue of religiosity,

but what was more important to the voters were good governance and broad-based economic growth.

He even claimed the program was behind his success in the 2004 general election, stating:

We are confident that *Islam Hadhari* approach can help bring Muslims into the modern world and integrate them in the modern economy. *Islam Hadhari* approach promotes tolerance, understanding, moderation, peace and certainly enlightenment (Ibid.: 138).

Islam and Minority Issues: The Malaysian Historical Experience and Contemporary Reality

As noted above, Muslims have had much experience both as minorities and as majorities within a region. They were initially minorities in Mecca and later when Muslims took flight (*hijra*) to Abyssinia and Medina, and continued to be minorities in certain regions throughout the establishment of Islamic kingdoms,¹⁴ through to the modern era. Their experiences differed across time and space. According to Richard Martin, there are two factors that influence implementation of Islamic law in such a context, namely difference of opinions in the various Islamic schools of thought, and social change and the local political situation. Martin writes:

This brief and partial survey of legal discourse about Muslims living as minorities in non-Muslim lands yields two important conclusions. First, theological differences accounted for some differences among law schools, especially with regard to the lenience or stringency of the requirement to emigrate. Second, historical change and local political conditions also produced new interpretations, even within the same schools. Nonetheless, as supported by premodern legal and historical texts, a high degree of concern existed in predominantly Islamic societies about Muslims living as minorities beyond the reaches of Islamic governance. On the whole, practical considerations of the

safety and prosperity of Muslim minorities who were able to practice their religion often determined how the laws were interpreted and applied (Martin, 2005: 47).

It is much the same for Muslim majorities, which have existed since the agreement that produced the Medina Charter, the most famous example perhaps being the multinational Ottoman Empire in Turkey.¹⁵ During the period of Islamic kingdoms before the Ottoman Empire was established, there was very little meaningful debate from the perspective of Islamic law or *fiqh* (jurisprudence) concerning non-Muslim minorities, who were positioned as *dhimmis* under Muslim supremacy (Fadl, 2006). Later developments however demanded there be discussion over the phenomenon.

Dhimmis are of protected status (*al-himayah*) and are treated differently to Muslims, especially over the obligation to pay tax (*jizyah*), and the restrictions from holding equal political positions to Muslims as well as from serving as soldiers (for ideological reasons). However, they are required to observe the regulations of the Islamic state, are guaranteed freedom to adhere to a religion and to worship in accordance with that religion, and are protected from attack by others (Qardhawi, 1992: 6-57; Mimmy, 1998: 5-50). *Dhimmis* were divided into two categories. The first, the people of the book (Jews and Christians), had to be treated well and held a special position in religious law and society.¹⁶ Meanwhile the second, the polytheists, referred to in the Quran as *mushrik*, were forced to submit until they embraced Islam.¹⁷ Despite this, Qardhawi notes that Islam required that Muslims be tolerant (*tasamuh*) of other religions and their beliefs, quoting a verse from the Quran that states it is not the task of Muslims to guide (*hudan*) others to believe in or embrace Islam, but rather that guidance is Allah's will (*yashaa'a Allah*).¹⁸ The concept of differentiating between Muslims and infidels (both *dhimmis* and *harbis* – non-Muslims residing in *dar al-harb*), which is combined into the concept of *dar al-Islam* (land of Islam) and *dar al-harb* (land of war) and even the newer concept of *dar al-sulh* (land of truce) (Fathani, 1990, 5-25), in essence refers to a concept of Muslim

supremacy over all others within *dar al-Islam*, both constitutionally and in terms of economic and socio-political practices.

In the modern era, the concept of nation-state nationalism does not differentiate citizens based on ethnicity, religion, gender, skin color and so on. Differing from this concept, the Ottoman Empire in Turkey applied the concept of multinationalism, whereby international Islamic hegemony did not lead to universal enforcement of Islamic law for all citizens, but instead drew from the *dhimmi* concept in application of the *Millet* concept which allowed each religion the freedom to enforce its own religious laws within its own community, under the coordination of the Ottoman Empire (Senturk, 2005). Under this *Millet* concept, the Ottoman Turks are said to have given significant social, political and economic opportunities to non-Muslim minorities such as the Jews, Christians, Armenians and Greek Orthodox Christians helping them penetrate a number of professions and to hold public roles in finance, diplomacy, industry and public administration (Nisan, 2002: 5).

The emergence of the concept of the nation-state and modern nationalism coinciding with European influence in the East and the fall of the Ottoman Empire destroyed the *Millet* concept, even in Islamic states. The terms *dhimmi* and *harbi*, although still used frequently in discussions on Islamic law on campus and in Islamic study groups, had to be modified in accordance with the developments taking place within society. According to Martin, there are four primary factors that have shaped the concept of minority status in Islam:

... the determinants of an Islamic vocabulary and concept of minorities were: (1) the contentious power politics of early Islamic expansion; (2) the religious identities that this highlighted and created; (3) such ethnic issues as the significance of Arab Identity in claiming privileges in the Islamic social order; and (4) the message of scripture and the direction given to the Muslim community by the Prophet Muhammad (Martin, 2005: 7).

It is thus clear that this concept/doctrine constantly underwent development and changed in accordance with local socio-political conditions and the demands of society across time and space. Generally speaking there has been one major problem with equality in the relationship between the majority and minorities in Islamic states. Martin writes:

Within the context of more general theoretical considerations, (...) *minority status* often involves some form of exclusion from the dominant society or assignment to a lower status in one or more of four areas of life: (1) economics, (2) political, (3) legal, and/or (4) social-associational. *Dominance*, on the other hand, is based on (1) power, which enables the dominant groups(s) to exploit the minority; (2) ideology, which rationalizes the claims that the dominant group has a monopoly over the minority (for example, Hindus over Muslims in India); and (3) racism, which argues for biological superiority (Ibid.: 14).

There are three general opinions on the *dhimmi* concept in the modern era, especially concerning its relationship with democracy and human rights. First, there are those who want the concept of the modern nation-state and of universal human rights to realistically accept the *dhimmi* concept as a concept with a long and valid history, and that is considered by the Muslim community to possess universal truth as it represents divine revelation from God. Although it is not easy to alter the fundamental principles behind the concept of the nation-state and universal human rights, especially in regard to the equality of humans and citizens, this perspective considers that respect of the unique *dhimmi* concept is important and both strengthens the legitimacy and increases acceptance of human rights.

Timothy William Waters from Indiana University School of Law, Bloomington, is a scholar of this opinion.¹⁹ Waters writes that human rights currently need more widespread legitimacy, especially from groups within society that hold to concepts that differ from the human rights concept whose roots can be traced back to the

tradition of western liberalism. As we have seen, Islam has its own ideas about minorities as expressed in the *dhimmi* concept, and this concept has the power to increase legitimacy and acceptance of the concept of universal human rights (Ibid.: 7). The *dhimmi* concept, which has historical and religious legitimacy, should be considered as the foundation on which to introduce human rights to the Muslim community in a way that decreases tensions between universal human rights and their relationship with local traditions and religions. According to Waters, this would strengthen the legitimacy of human rights within social and religious groups that have to date opposed the concept on the basis of religious and socio-cultural particularities. Waters acknowledges that there are still several problems within the *dhimmi* concept, especially concerning inequality of citizens. This is because, he says, the *dhimmi* concept has tended to be oriented towards allowing different (alien) minority groups the freedom to exist rather than towards ensuring that the state actively protects their rights. Waters writes:

(...) It is not a claim about cultural relativism but a model of decisional autonomy, a claim that different polities ought to have broad latitude to construct their own rules. It draws implicitly on the Roman concept of *jus gentium*, which guarantees, not a right to certain substantive rights, but a right to a system. It is thus a commitment to systemic diversity and particularism – notions that may conflict with the universalizing individual commitments of orthodox human rights (Ibid.: 15).

The second perspective tries to bridge the divide between universal or secular law (particularly human rights) and religious or Islamic law. In support of this view is Recep Senturk, who argues that in the current era of democratization and pluralism there needs to be an effort made to bridge the divide between secular law, which is considered to be universal, and religious law, in particular Islamic law, which is considered particular (Senturk, 2005 : 71). For Senturk, Islamic law in the European Middle Ages was similar to Christian

inspired law in Europe or that of any other religion in the world for that matter. Islamic law basically only regulated the Muslim community, and Islamic kingdoms right through to the Ottoman Empire gave flexibility for other religious communities to apply their own laws under the protection of Islam. Senturk also states that the reality differs from what is written in the classical Islamic texts or described by Orientalists. That is, in practice Islamic law did not treat people of the book, in this case Jews and Christians, differently from polytheistic religions, at least not in India and Iran. Rather, Islamic kingdoms treated them equally, giving them the freedom to enforce their own religious laws. Only when there were problems between Muslims and non-Muslims was Islamic law involved. In order to prevent clashes between praxis and the text of the Quran and *hadith* when the two were in contradiction, Muslim jurists placed the concept of *al-daruriyyah al-shar'iyah* or 'axiom of law' into effect as the method to be used for interpretation (Ibid.: 68-70).

For Senturk, the long tension that has existed between religious and secular law is a direct result of age-old tensions between the two that if maintained will hinder pluralism and democracy. The reality, he continues, is that it is often religious leaders that promote pluralism and democracy, and even protection of minorities. He writes of the need to get beyond tension, by building a bridge between the two laws:

Traditionally, the answer has been either secularism or religion. Recently a trend has emerged, however, that aims to construct a new framework that would allow combining secular and religious viewpoints on pluralism and democracy. If there is nothing in the religious and secular approach to make them mutually exclusive on their view as to the inviolability of the rights of others, then it seems plausible to allow them to work together with a synergy in promoting pluralism and democracy. With the resurgence of religion everywhere in the world, such an approach may better serve mutual respect (Ibid.: 70).

Finally, the third stance involves transformation and reinterpretation of the *dhimmi* concept so that it becomes a concept for minorities within the context of human rights. Abdullahi Ahmed An-Na'im has proposed that the concepts of sovereignty and citizenship be used as general principles for reforming Islamic law in this era of modern states and international law. Such a reformation would lead to equality of all individuals and citizens by ignoring differences in religion, gender and race, and, within the context of Islam, application of Islamic law would not be based on the concept of a purely Muslim community (Na'im, 1990: 86-91). According to Na'im, Islamic law must be transformed in a way that it does not discriminate against humans or individuals based on religion or gender. Islamic intellectuals have already proven that although slavery is mentioned in the holy texts and was legitimate in Islamic history, its eradication under Islamic law is also seen as legitimate and as representative of Islamic thinkers. Na'im writes:

Modern Muslim writers seek to defend *sharia* on all of these features of discrimination against women and *dhimmis* by citing historical sociological and political justifications. Although the acceptance or rejection of a given justification as valid is a subjective matter, generally prevailing notions of justice and reasonableness have a role to play in the process. For example, whereas slavery may have been accepted as justifiable in the past, no one would claim that it is now. It is my submission that these elements of discrimination against women and non-Muslims cannot be accepted as justifiable by the standards of justice and reasonableness prevailing today (Ibid.).

Malaysia has had its own unique experience of these developments in accordance with the distinct Malaysian socio-historic context. While the reality in Malaysia has at times approached one or more of the three models above, the term *dhimmi* is never used.²⁰

Democratization *via* Transformation of Ethnic Hegemony: The Malaysian Case

Liberal democratic states have also had majorities that have held privileged positions if one recalls, for instance, the history of Anglican Christians in Great Britain. They were privileged not only in Great Britain, but also in nearly all liberal European states applying individual rights. The same was true for Protestant Christians in the United States and in Australia (Kymlicka, 1995: 53-57). Anglicans had an official church within the state that even today acts as a reference for those who run the state. The question is, does this privileged position stand in the way of individual access and freedom, or suggest discrimination? If yes, this implies violation of democratic and human rights principles.

Enforcement of individual rights in liberal democracies begs the question, does the guarantee of individual rights interfere with the guarantee of collective or community rights, especially those of minorities within a state? If yes, then the concept of democracy should be questioned and altered in order that guarantee of individual rights does not override guarantee of the collective or community rights of minorities. However, at least according to Will Kymlicka, the desire of minority groups for collective guarantees should not hamper the enforcement of individual rights for their members. Democracy does not condone guaranteeing the collective rights of a group if that group violates the individual rights of its members or puts internal restrictions in place (Ibid.: 57-58). In traditional concepts of nationalism, according to Kymlicka, collective rights were not given attention, as focus was primarily on the guarantee of individual rights. In fact, in human rights concepts the matter was not even raised. Kymlicka writes:

The problem is not that traditional human rights doctrines give us the wrong answer to this question [minority rights]. It is rather that they often give no answer at all. The rights to free speech does not tell us what an appropriate language policy is; the right to vote does not tell us how political

boundaries should be drawn, or how powers should be distributed between levels of government; the right to mobility does not tell us what an appropriate distinguish between an appropriate immigration and naturalization polity is. These questions have been left to the usual process of majoritarian decision-making within each state (Ibid.: 5).

Globalization has led to a new problem in regard to the collective rights of minorities. As with criticism levelled at the *dhimmi* concept in Islamic or Muslim majority states, criticism of the concept of nation-state nationalism which universalized individual freedoms has also undergone development and change. Chaim Gans, for instance, differentiates between state nationalism and cultural nationalism. The old concept of nationalism, state nationalism, tends to place more emphasis on geographical boundaries and national unity of all citizens. Cultural differences are minimized and not considered important. This concept was applied strictly up until the Second World War (Gans, 2003). More recently a newer concept known as cultural nationalism has emerged to challenge state nationalism. It demands all groups marked by unique characteristics and long histories, no matter how small they may be, be granted cultural rights as groups within the nation-state. One of the more extreme examples of this is Quebec's relationship with Canada. It has a unique history and culture, especially with its use of French, and thus Quebec has been granted the right to use a language other than the national language and to promote their traditions as the unique culture of the region, even though the province exists within Canada (Macmillan, 1990). Any state that is historically home to very sharp cultural differences, will find it is necessary to consider application of the concept of cultural nationalism, as state nationalism has to answer to some profound demands and much criticism in this contemporary era of globalization.

According to Kymlicka, even in liberal democracies very little substantial discussion has emerged over the place of minorities or the guarantee of collective rights for small groups (Kymlicka, 1995:

53). Specifically for collective rights, Kymlicka examines immigrants, and their claim to be respected equally with the natives of the country to which they have migrated. He argues that both native and immigrant minorities have the same rights to social, economic and political equality, as well as citizenship. They are only different in that immigrants in general migrate voluntarily, and as such do not have the right to demand self-governance (Ibid.: 63). In the case of Malaysia, demands to remove the Malay/Bumiputera Supremacy policy came primarily from immigrant groups, particularly the Indian and Chinese communities who felt discriminated against, but were also supported by some ethnic Malays. Together they formed PR, a coalition of opposition parties, though each individual party (PKR, PAS and DAP) had its own reasons for wanting the policy removed. The immigrants, as Kymlicka describes, did not intend to establish their own state entity and obtain self-governance, rather they limited their demands to equality in the constitution, work opportunities, and political and economic standing. Although Penang, for instance, has a Chinese majority, they are quite satisfied with the opposition coalition's policy of meritocracy and open tenders. They have never voiced aspirations for separation as in Singapore for instance. Elsewhere, ethnic Chinese and Indians are spread throughout regions, even residing in villages, contrary to the native minorities concentrated in Sabah and Sarawak. Even these indigenous groups have never spoken about autonomy or self-governance, though they have not, by any means, received just economic distribution.

Clearly, Malaysia currently faces a number of issues concerning equality and minority rights, especially for Chinese and Indian immigrants, and economic justice for native minorities even though they are technically classed as *Bumiputera*. This has pushed some scholars to question Malaysia's status as a liberal democracy, given that although the Malaysian constitution guarantees equality of citizens and religious freedom, at the same time it also outlines the idea of *Bumiputera* supremacy, and not solely as an emergency program (Jomo 1990-1991).²¹

For Peleg there are three criteria a state must meet to be categorized as a liberal democracy: (1) equality of all citizens as individuals, as without this democracy cannot be achieved; (2) equality of most groups within society; even though there may be sharp differences between them that cause several smaller groups to not obtain truly equal recognition there must be a political guarantee that they be accepted and treated equally; (3) equality must be formal and real, legal and practical, in the sense that all individuals have equal opportunities to actively pursue their aspirations (Peleg, 2007: 55).

According to Peleg, a democratic state that still differentiates between citizens based on ethnicity and chooses to give priority to the majority is tantamount to a hegemonic state (Ibid.: 60-65). Such states, he continues, are currently facing significant protest and demands from their discriminated or marginalized citizens. Peleg warns that if these demands do not achieve a satisfactory shift from the status quo and fail to produce any kind of transformation towards better equality, experience shows that violence is often a final resort (Ibid.: 68-69). Despite this, minorities in Malaysia have never instigated violence, rather it has been the majority which has done so, most phenomenally in the 1969 election. It is important that these kinds of demands for equality that have spread throughout the world not be ignored. The opposition's ability to secure a record-breaking number of seats in parliament and control over a number of states in Malaysia for the first time since independence due to its offer of equality and meritocracy, is an important sign of the desire for real and significant transformation.²²

Managing Minorities and Identity in Malaysia

A racial approach and immigrant status

Racial approaches in Malaysian politics have been around since before independence, and were advocated strongly in the struggle for independence.²³ Their implementation has evolved over time,

dating back to European occupation when trade and economic progression in Southeast Asia or the Malay Peninsula led to mass Chinese migration to the region (Omar, 2005: 13-180.²⁴ By the time Malaysian independence was declared in 1957, and before the inclusion of the Malay majority states of Sabah and Sarawak in 1963 and the separation of the Chinese majority Singapore in 1965, there was almost equal numbers of ethnic Malays and immigrants (Chinese and Indian). On the other hand, unfair treatment by the European/English and even Japanese colonizers of the ethnic Malays/*native* saw ethnic Chinese/immigrants progress faster than the natives (Nair 2009; Omar, 2005: 13-16). This led to chronic economic inequality. By 1970, 13 years after independence, the native only controlled 1.7% of the national economy. This led to a general awareness of and, after the interracial unrest during the general election on 13 May 1969,²⁵ a more concerted push for affirmative action.

Within UMNO, the party leading the BN coalition, there was internal 'conflict' over the government policy which some younger members under the guidance of Dr Mahathir Mohamad felt could have been more pro-Malay. Mahathir's extreme actions saw him marginalized, as the mainstream leadership of UMNO, led by Tunku Abdul Rahman, has since tended to be more moderate. Mahathir wrote the classic book *The Malay Dilemma*, published in 1970. Though banned by PM Tunku, the book has inspired the radical movement for a superior Malay policy, which at the time strengthened the affirmative policy, later known as the NEP.²⁶ The NEP has two main aims, namely eradication of poverty and restructuring of economic equality to ensure that Malays increase control over the national economy to 30 percent by 1990, with 40 percent for non-*Bumiputera* and the remaining 30 percent for foreign investment (Jomo, 1990-1991).²⁷

With reference to the causes and factors behind the 13 May 1969 unrest, Mahathir emphasized that the severe economic disproportion between the *pribumior Malay* and the immigrants, particularly the Chinese, and the government's unwillingness to take sides had

led to the relative backwardness and poverty of the *Bumiputera*. Mahathir also argued that assimilation of Chinese immigrants was only surface deep with no intensive dialogue or cooperation in the economic, social or cultural sectors. Mahathir compared this with Indian and Arab immigrants who, unlike the dominating Chinese, had helped alter the economic behavior of Malaysians through their close relationship and entrepreneurship, both in villages and small cities, that had helped both groups progress together. Portuguese, English and even Japanese colonizers, Mahathir continued, only worsened social, cultural and economic inequalities which led to a less than harmonious relationship between the Chinese and Malay because of the neglect of the latter. Then, he continued, after independence there was much nepotism and collusion such as the 'Ali-Baba economy' between the largely Chinese immigrants and the Malay political elite. Mahathir, once again referring to the 1969 racial unrest, concluded that Malaysia needed strong leadership to make drastic changes in order to remedy economic, social and cultural inequalities. Mahathir also 'predicted', to refrain from saying 'threatened', that if no significant changes were made to rectify such inequalities between the Malays and the Chinese, then revolution was likely. He writes:

The events of 13 May 1969 have shown that facts, however unpleasant, must be faced. The people who ran amok on that fateful day were Malays. That sudden outburst has undone almost all that has been achieved over the past twelve years. If we are not to see a repetition of this carnage, it would be as well to know some of the reasons for that unprecedented calamity, and to think seriously about rehabilitating the Malays.

(...) It is therefore imperative that a determined attempt be made to solve this dilemma. The first need is a revolution. Revolution is a word which is unduly feared in Malaysia. Revolution creates visions of assassinations and anarchy (...)." (Mohamad 2008: 133-134).

Mahathir was highly critical of PM Tunku Abdul Rahman not only in his writing and speeches but he also enlisted a number of youth within UMNO to oppose Tunku's policies that Mahathir saw as corrupt, nepotistic and not sufficiently pro-Malay. This led to his sidelining from the UMNO ruling elite and the banning of his book.²⁸ However, he was not sidelined for long as his movement successfully forced Tunku to resign and instead take on a role as a Father of the Nation. He was replaced by Tun Abdul Razak in 1972, a move which saw Mahathir take a position once again within the UMNO ruling elite. Razak's term ended when he died in 1976, and he was replaced by his deputy, Hussein Onn. Surprisingly, Onn appointed Mahathir as his deputy, which allowed Mahathir to later take the reigns as PM when Onn's first term ended in 1981. Mahathir became UMNO President, Prime Minister of Malaysia, and as such, leader of the BN coalition. Mahathir's book was revised in 1983, two years into his first term, though the thoughts it espoused had for some years been influencing government policies, most importantly the NEP, formulated and enforced in 1971, and further strengthened when Tun Abdul Razak became PM. Later, Mahathir was to put a more extensive and wider reaching NEP policy into effect (Mohamad, 2009).

But how does Mahathir view the policy after 40 years of implementation, 22 of which were under his own rule? In the introduction to the 2008 edition of *The Malay Dilemma*, Mahathir admitted that there had been changes in the composition of economic control and professionalism for the Malays. In terms of economic and technological cooperation, for instance, Malays were relatively on par with the Chinese. However, he continued, changing his convictions would require further research as the issue was complex.

I had been very critical of Chinese business practices, which seem to keep the Malays out. At the time of writing the book [*The Malay Dilemma*], the Chinese had not yet taken to the public limited companies. Their businesses were almost all family owned.

But today most of the big Chinese businesses are listed on the stock exchange... I need to rethink about Chinese business practices and their effect on the Malays. ...I hope to be able to revise *The Malay Dilemma* at some stage in the future. (...) (Mohamad, 2008: 5)

In other words, although admitting significant changes had occurred, Mahathir was yet to revise his views.

Mahathir's ideas and his NEP policy have not escaped criticism and protest, especially from ethnic Chinese and Indians. A successful Chinese businessman, Ye Lin-Sheng, told how after reading Mahathir's book in 1970 he was determined to respond. However, he claimed that although he put pen to paper in 1990, at the time the NEP program was set to end, his book was only published in 2003, after Mahathir Mohamad's replacement by Pak Lah. The title of his book, *The Chinese Dilemma*, was based on that of Mahathir's but clearly expressed the Chinese perspective. Lin-Sheng, the son of a Chinese immigrant who migrated to Malaysia in the 1930s, is now 70 years old, and owns a successful world conglomerate. Lin-Sheng admitted realistically that the NEP had been necessary, and had achieved some fundamental changes, but should not be continued indefinitely as it had already created a wide divide between the *pribumi*, including non-Muslims, and immigrants, including non-Chinese and non-Indian, all of whom were equally as Malaysian/*Bumiputera*. The program has significantly reduced opportunities available to the Chinese to work and establish businesses, and has led to economic inequalities amongst the Chinese themselves. The application of the NEP, Lin-Sheng said, had led to misuse and abuse of power, even between those Chinese affiliated with MCA and all others. He writes:

... the MCA's role has been reduced to that of merely placating its constituency and reassuring it of the government's good intentions. The party can neither initiate nor block policies, and it can never contribute anything more than ancillary policies. (Li-Sheng, 2008: 55).

The Chinese dilemma also concerns cultural assimilation and acculturation, as the identities 'us v. them' or '*pribumi* vs immigrants' continue to become more and more juxtaposed and entrenched (Ibid.: 82). This has even affected the interpretation of national identity and citizenship. Quoting the feelings of one young Chinese Malaysian, Lin-Sheng writes:

(...) the Chinese dilemma is that when we are abroad, we are Malaysians first and Chinese second, but at home, we are Chinese first and Malaysians second (Ibid.: 137).

Another Chinese Malaysian, Lim Kam Hing, also writes that affirmative action was needed at the time and that although MCA lost several of its central portfolios in the 1971 cabinet, particularly the Ministry of Trade and Industry, it did manage to keep Finance and Health, and the newer generation with MCA were forced to change their tactics from politics to small to medium trade and to shift their activities towards the grassroots level of society (Kam Hing, 2005: 346-347). However, quoting another Chinese leader, Lim Kam states that the NEP program was incapable of attaining national unity, and so in 1990, a time which should have marked the end of the NEP, a movement arose to promote eradication of the divide between the *Bumiputera* and non-*Bumiputera* (Ibid.: 353).

Similar criticism was levelled by Indian writers. Ramasamy, for instance, notes that native Malays held much the same position as Indian Malays before independence and at the time the NEP was introduced. The majority had been neglected and were living in poverty. He admits that initially the UMNO, MCA and MIC coalition was a place for Indians to negotiate and voice their aspirations, but eventually UMNO hegemony within BN saw an end to this. Ramasamy writes:

However, the scenario changed with the formation of the BN and the emergence of UMNO as the most powerful and dominant party. It was the emergence of UMNO in championing Malay rights and privileges on the grounds

of their *Bumiputera* status that created problems for other ethnic political parties in the Barisan coalition. The new forms of politics that emerged did not totally discard the interests of non-Malays, but made them secondary to the larger interests of Malays. Therefore the kind of inter-ethnic bargaining and compromise that was so essential for the success for the earlier consociational model become less and less relevant under the hegemonic politics of Malays.” (Ramasamy, 2004: 150).

Besides MIC being too dependent on UMNO, there were also internal issues within MIC itself. The party became highly authoritarian, with leaders tending to neglect the interests of the poor in order to prioritize their own agendas. Consequently, Indians began to feel that the party did not represent their interests, even though MIC was in a position to make changes (Ibid.: 153). A young Indian Malaysian executive and CEO of an independent online daily paper told how MIC was little more than a party owned by one person. For 20 years its chairman had never been replaced, and the entire party was centered around his interests alone. It was little surprise that he lost his seat in parliament in the 2008 election (Interview with Prem).

According to Ramasamy, government contracts were always awarded to Malays close to the UMNO ruling elite. He explains:

As long as Malay interests and concerns are going to be prioritized under the banner of Malay hegemony, it would be impossible for Indians to obtain a fair chance. The prominent role played by a handful of wealthy entrepreneurs would not make much difference to the overall progress of the community. It is not that Indians lack the necessary skills and knowledge, but it is the particular kind of racial politics in the country that prevents them from fully utilizing the opportunities. (Ramasamy, 2004:156).²⁹

Meanwhile, Jomo, evaluating the NEP in 1990, shows how any increase in prosperity was only a result of growth and productivity that was not accompanied by redistribution. He writes:

It should also be recognized that much of the reduction in poverty has been due to economic growth and increased productivity more generally, rather than more equitable redistribution of economic resources, especially capital and land. Hence, without such redistributive measures, it is inevitable that measures aimed at reducing poverty are only likely to be marginally effective since poverty rights and the basically inequitable pattern of asset distribution are not to be tampered with by government policy. (Jomo, 1990-1991: 474).

Syed Husin Ali's critique is perhaps more fundamental, suggesting that the policy should not accord only with theories of economic growth, but should also regulate land reform. The current deputy chairman of PKR, wrote a stinging criticism in 1974 that led to his imprisonment under the ISA. He argued that even if the NEP was successful in channeling wealth and control of the national economy from ethnic Chinese to ethnic Malays, it would only be enjoyed by the elite, and would never eradicate poverty in villages. This was caused, amongst other things, because the government rejected the transferal of land ownership in land reform to achieve the NEP's real objective, and because of the ruling elite's 'digressions' (Ali, 2008: 23-27).

From Malay/non-Malay to Bumiputera/non-Bumiputera, An ethnic approach

During the 1950s until several years after independence, there was a large Chinese population in Malaysia (45%). This was before the inclusion of Sabah and Sarawak and before Singapore, with its Chinese majority, split (Mohamad, 2009: 118-119). After these two events, the Chinese population fell to 26 percent, with Malays constituting 53 percent (Mohamad, 2009:123).³⁰ There were several non-Muslim groups and indigenous peoples in Sabah and Sarawak (12%), in addition to ethnic Indians and other very small minorities such as those of Portuguese descent. While these minority non-Muslim ethnic populations are concentrated in Sabah and Sarawak,

the Chinese and Indians are spread widely. Today, Penang is the only Chinese majority state (Ibid.: 118-119).

These particular events in Malaysian history did not only influence the composition of Malaysia's population, but also had consequences for the categorization of citizenship based on ethnicity and identity, as well as the fate of minorities. It has influenced the entire Malaysian political system and policymaking (Daniels, 2005: 25-33). Before the inclusion of Sabah and Sarawak and the loss of Singapore, the official title used for *pribumi* (native) Malays in the constitution (Federal Constitution, 153[1]) and government programs was *Melayu* (Malay), which included indigenous peoples in the peninsula. There were four main conditions required to be Malay, including being Muslim, having proficiency in Malay, practicing Malay customary traditions, and being born in Malaya or Singapore or having Malay/Singaporean ancestors (Ismail, 2005: 117). This discourse was used within UMNO and in government policies. Clearly, elements of the Malay Supremacy policy were present long before independence, even though it was only in 1971 that the policy was intensified. However, after the inclusion of Sabah and Sarawak, the large population of non-Muslim natives in the two states meant that the discourse was insufficient when it came to including these populations as natives in the Malaysian political system. Thus, the category *Melayu*, which initially only saw Muslims as natives, was extended to incorporate ethnic Malays, ethnic non-Muslims, and the indigenous peoples of Sabah and Sarawak, in addition to immigrants of Malay blood, such as those from various regions in Indonesia and the Southern Philippines. The title *Melayu* was changed to *Bumiputera*, as noted in the 1971 constitutional amendment, Article 153 (Act A30) (Faruq, 2005: 35-36). The NEP, often referred to as Malay Supremacy is actually more correctly described by the term Bumiputera Supremacy (Ismail, 2005: 118) as state and government prioritizing of the *pribumi* majority does not only involve Muslim citizens but also includes non-Muslim natives and those with pagan or polytheistic indigenous beliefs. Immigrant populations were also

divided, with some falling under the Malay, now *Bumiputera*, category such as those originating from regions that are now part of Indonesia (Minang, Bugis, Aceh and Java) (Daniels, 2005) and others falling under the non-*Bumiputera* category, including the usually Buddhist Chinese, and usually Hindu Indians.

In addition to the *Bumiputera*/non-*Bumiputera* polarization, which some see as having created second class citizens (the non-*Bumiputera*), inequalities have also emerged within the *Bumiputera*, creating a group which some have labelled 'second class *Bumiputera*.' This has primarily affected the non-Malay or non-Muslim *Bumiputera* in the multiethnic and multiracial states of Sabah and Sarawak. It cannot be denied that they have suffered from economic and educational inequalities which have restricted their access to jobs, the economy and politics. This issue has been the subject of heated discussions between the government and the opposition concerning reinterpretation of the federal system and economic distribution. There had indeed been positive effects for economic distribution for the *Bumiputera* under the NEP/NDP/NVP, but they were not enjoyed equally. In her analysis of the initial phase of the NVP and its effect on Sarawak, Madeline Berma concludes that:

In Sarawak, it was the Malays and the Chinese who benefited the most from the economic growth during NEP and NDP period. Government policies appear to be biased against *Bumiputera* minorities in public sector employment and business support... While an increasing number of *Bumiputera* have entered the modern and attractive economic sectors in Malaysia, the fact remains that economic growth during the NEP and NDP periods did not equally benefit the majority of *Bumiputera* minorities. The *Bumiputera* minority continues to predominate at the rural sector (Berma, 2005: 250).

A similar situation has emerged in Sabah. Kurus and Tangau write:

(...) one of the fundamental challenges that remains is the need to put in place additional 'enabling factors' that would

provide all segments of society, but especially ‘marginalized and disadvantaged groups’ within the country equitable opportunity to equip themselves and contribute their fair share towards the realization of Vision 2020.

(...) given their continued dominance among the poorer segment of society, their very weak presence in the economic and business spheres and their low educational attainment, the *indigenous people of Sabah* surely rank among the diminishing but still sizeable marginalized and disadvantaged of Malaysian society. (Kurus& Wilfred, 2005: 280).

Mason and Jawan describe the fate of the Dayaks, one of the larger tribes in Sarawak:

One major aim of the NEP, launched in 1971, was to uplift the socio-economic standing of the *Bumiputera* communities, both Malay/Muslim and the non-Muslim, whose economic positions were historically inferior to the migrant Chinese. In this regard, the NEP has achieved significant success *vis-à-vis* the Malay... But the same could not be said of the other indigenous ethnic communities. It is especially true of Dayak communities in Sarawak; and it is this sense of discrimination and marginalization that gave rise to dayakism... For a larger *Bumiputera* rubric, the Dayak felt themselves to be treated as second-class *vis-à-vis* the Malay-Muslim communities who wield political power in the state. (Mason & Jayum, 2005: 190).

Meanwhile Ongkili details the fate of the important Kadazandusun tribe in Sabah:

Not much can be said about development of *Kadazan Bumiputeraism* today, except to note that *Kadazandusuns* are increasingly less enamored with the *Bumiputera* status accorded them 40 years ago. There is growing disenchantment with the term as *Kadazans* no longer subscribe to the ‘privileges analogous to the Malay’ policy. Many in the community treat it with indifference, others tend to joke about it, hence the terms third class

Bumiputera, pseudo-*Bumiputera* and *Bumiputera*-celup... The term 'minority *Bumiputera*' has emerged over the past few years and has attracted considerable interest locally. *Kadazan* intellectuals have taken up the issue to try and find answers to disillusionment among *Kadazans* with the '*Bumiputera* policy'(...). (Ongkili, 2005: 206).

After such a lengthy discussion, an interesting question emerges in relation to Islamic law doctrine. Suppose that the situation presented above with all its complexities be interpreted in terms of the *dhimmi* and *harbi* categories of *sharia* or static and conventional Islamic law. The task is by no means easy. *Bumiputera* Superiority does not only include Muslims, as political demands and social developments required that the concept be modified and expanded. Also, non-Muslim *Bumiputera* are not only 'people of the book' but also pagans/polytheists who, according to the Quran, are classed as *mushrik* and must be forced to submit to Islam. However, due to politico-historic factors and economic justice, they have been incorporated into the *Bumiputera* category, and as such given priority in the Malaysian economic and political system (despite the inequalities they still face *vis-à-vis* Muslim *Bumiputera*). If one asks this question in relation to the separation of Singapore from the Federation of Malaysia, does it mean that Singaporean non-Muslims, initially *dhimmis* in the Malaysian state, automatically became *harbi* after the split, and as such enemies upon which war may be waged? Of course not. Although both nations have a competitive relationship occasionally marked by tension, they have never waged war on one another and have always respected one another when they have been bound by their respective constitutions and international law.

This suggests that local political and economic realities as well as the international system have more influence on modern Muslim political and social structures, which may well instigate reformation or transformation (or whatever one wants to call it) of the highly static and conventional *sharia* doctrine, so that it can contribute to and help resolve some of the more concrete problems present in

contemporary social life.

Recent Debate on People's Supremacy vs One Malaysia

In his speech prior to announcing new cabinet members in 2008, PM Moh Najib Tun Abdul Razak, stated:

As I have spoken to people over recent days, I have seen and heard a desire for renewal and change. This will be a government which will respond to the needs of the *Rakyat*, and prepared to serve future generations (...). I am proud to have selected 28 men and women(...). They reflect the strength and diversity of the BN coalition, which is representative of all Malaysians and all parts of our country (...). One Malaysia. (NRazak, 2009: 1).

He concluded:

I have also appointed a minister in charge of Unity within the Prime Minister's Department, concurrent with his responsibility for Performance Management. This new Portfolio will adopt creative approaches towards promoting national unity, in line with the concept of One Malaysia, People First, Performance Now. Economic recovery and building long-term prosperity are the top priorities of the government. As such, I will lead our government's efforts with an experienced, proven economic team working for Malaysia. (Ibid.: 4).

This quote is indicative of how serious BN-UMNO apparently is under the leadership of Malaysia's sixth prime minister to implement reformation and to respond to the opposition's challenge and the people's demands. In addition to promising to implement fundamental and drastic changes, Najib introduced the new slogan, 'One Malaysia', accompanied by propaganda advertising the new government's 'One Malaysia, People First, Performance Now' platform.³¹

Najib spoke not only of his promises but of the policies he

would implement. He announced, for instance, that in 2010 for the first time ever he would grant '*Wang Ehsan*' ('Goodwill Money'), a kind of compensation to Kelantan and Trengganu for their oil production (New Straight Times, 05/11/09). The construction budget for Sabah and Sarawak, the two poorest and most underdeveloped states in Malaysia that had, nevertheless, given significant support to UMNO, would be increased.³² Najib also announced that 6 September, marking the incorporation of Sabah and Sarawak, would be a national holiday as of 2010 (Bernama News Office 15/0109). In addition, Najib promised clean water and electricity for 90 percent and 95 percent of households respectively in the two states as of 2012 (Edge Online News, 27/07/09). For poor Indians who voted for PKR, Najib promised a rather large budget to eradicate poverty and construct houses.

Many times throughout his speech Najib spoke of how UMNO was 'prepared to change', and how it would push the other parties in the coalition to do likewise. Within UMNO, Najib altered the method of political recruitment by initiating open competition at all levels in response to criticism that appointment of committee members and MPs was dependent on bribery at all levels. Political leaders in the regions would be unable to quietly appoint cronies, relatives or anyone with a large enough bribe. Rather, anyone wanting to buy a position would require so much money it was no longer feasible to do so, as the number of people now involved in the process was much larger (www.umno-online.com 19/10/19). Najib also argued that 30 percent of new recruits to the military academy should be non-Malay to counter Malay dominance in the institution (Bernama News Office, 15/01/10).

However, the fundamental problem BN currently faces, it seems, is that UMNO is running alone in the coalition, not only in gaining benefits from monopolistic and risky government projects, but also in their acquisition of seats in the general election. Despite the significant decrease in the number of votes BN managed to secure as a coalition, UMNO more or less maintained

its representation while the other parties in the coalition suffered huge losses in parliament. Of the 63.1% the coalition secured, UMNO secured 35.6%, MCA 6.8%, MIC 1.4%, PGRM 0.9% and other small parties particularly from Sabah and Sarawak won 18.5% (Savaranamutu, 2008: 53). However, in order to restore its reputation and regain the trust of the people and other members of the coalition, it seems that UMNO must avoid the stereotype of being defensive and exploiting tensions between *Bumiputera*/non-*Bumiputera*. This is no easy task if only artificial measures are taken to create a public image without it being accompanied by concrete changes that are experienced directly by the people. On the need for UMNO to change its image Azly writes:

These are burning questions as we become more mature about the 13 May 1969 incident. Students of nationalism would agree that UMNO does not have an ideology except to sustain its elusive political superiority via the reproduction of the marginalized forever enthralled to power and coercion...Even 'Barisan National' (National Front) is elusive. The coalition is just surviving and clinging to power by all means. Its survival lies in the way people are divided, conquered and mutated into 'postindustrial tribes' (...). (Rahman, 2009: 436).

Despite all BN's promises for change, PR still feels it is too little too late. The opposition proposed at least four fundamental changes. First was a completely new interpretation of the exact form the federation would take so that it be fairer for different regions and political and cultural groups. For PR, the current Malaysian Federation is a federation only in appearance as it is actually rather centralistic.³³ This is apparent, for instance, from the uneven distribution of taxes and revenue from the oil industry. The center has complete control over the distribution and unsurprisingly gains a far larger portion. It is often the case that development in opposition-controlled states is delayed as the center holds back on funding. Clearly, redistribution does not follow the '*Wang Ehsan*/'

Goodwill money' concept, a concept that is supposed to indicate the good intentions and generosity of the center, as it should. For the opposition, each state has the right to obtain a portion of tax and oil revenue, and as such it is the center's obligation to distribute both fairly, which would see many states obtain much larger royalties than they currently do. Thus, reinterpretation of the federal system would necessarily involve altering distribution of taxes and royalties from the oil industry (20% for states).³⁴

PR's second proposed change is to do away with the *Bumiputera*/Malay Supremacy policy and replace it with the People's Supremacy, a concept that relies on ability, fair competition or meritocracy and open tenders, but that continues to prioritize and act affirmatively to benefit the poor (based on needs and not ethnicity or political affiliation). PR has been relatively consistent in applying this concept in the states currently under its control.³⁵

Thirdly, PR proposes a program to gradually introduce a dual-party system in Malaysia. Although small parties are still allowed to operate, PR would see the creation of two large parties, but not in the current form, to balance power more equally. For this PR held a special symposium facilitated by the PKR's think tank to explore ideas and formulate a strategy in preparation for the PR Convention.³⁶ The PR Convention gave three members the opportunity to present speeches on different topics to political party chairmen at the state level, *ulama*(except for DAP), intellectuals, youth, women, technocrats, and bureaucrats. PR also promised to annul all draconian acts in addition to the BTN (Biro Tata Negara, National Civics Bureau) course—a kind of ideological indoctrination enforced by the current government which all students and civil servants are required to follow.³⁷ However, PR would continue to maintain a federal system, with the King as ultimate ruler, Islam the official religion, and Malay the official language.³⁸

Such radical changes have, according to informers within PKR ranks and within PR in general, made the coalition careful in the way they propose such changes, as they still lack sufficient political

funds. PKR, for instance, needs to win over at least 50 percent of voters of Malay ethnicity formerly loyal to the government. If able to do so, PKR can then assertively and openly push for more radical changes. "We are still anticipating the support we will gain in the 2004 election," Yusmadi said (Interview with Yusmadi Yusoff, 16/12/10). This, he added, would require maintaining the balance and mutual understanding within the PR coalition which to date, at least according to the first PR Convention, seems to be quite solid.

Conclusion: Waiting for a New Nation?

Malaysia is currently facing significant demands for fundamental change in management of identity, ethnicity and minorities, which has implications for political and economic justice as it requires ignoring differences based on ethnicity, skin color, and religion, and eradicating the discrimination which has become a fundamental part of the Malaysian political system. If one looks at the issues being discussed in the public sphere and the substance of the opposition's demands, this push for change is clearly here to stay. These demands for change cannot be avoided, as they represent awakened awareness amongst those that have been oppressed, and are also part of a global trend that has accompanied democratization and globalization. In Malaysia the fundamental demands for radical change include new interpretation of the federal system including granting 20 percent in royalties to states from taxes and oil revenue; abolition of the Bumiputera Supremacy policy and its replacement with the People's Supremacy concept; planned annulment of the draconian acts which have to date protected the status quo; as well as introduction of a dual party system which would allow voters to punish parties ignoring their aspirations, which in turn would help avoid the current situation where the status quo is maintained over long periods of time. Just how strong the people's aspirations for such change are, is apparent in the rather drastic increase in support

of the opposition.

In addition, the willingness of the current BN government to gradually but fundamentally correct its policies to improve economic redistribution and to eradicate racially and ethnically based politics, and its promise of greater openness and freedom further indicates the extent to which the people and the opposition are able to make their aspirations heard. Similarly, the care now being shown towards Indians, the majority of whom are poor and discriminated against, and the attention given to the poorest and most backward of states such as Kelantan, Sabah and Sarawak, is a direct result of the power behind the debate and challenges presented by the opposition.

The opposition's victory in the coming election is not, by any means, the only or best measurement of how successful this change has been. Perhaps a more important measurement lies in the change itself and the ability to achieve equality of citizens without discrimination in regard to citizenship and the political system, as well as fair economic redistribution. It is largely irrelevant who implements the change. However, this requires a system willing to implement change, and the opposition's radical proposals must be used to measure this. New interpretation of the federal system, eradication of the Bumiputera Supremacy Policy through its removal from articles in the constitution, and annulment of the draconian acts that have been used to prop up the status quo, can all be used as a primary measurement of the determination for change. If these three things can be achieved, it is clear that the opposition desires more than simply taking control of government and maintaining the old system. If these three things can be achieved, it becomes possible for Malaysians, no matter their ethnicity or ancestry, to begin forming 'a new nation'. This new nation would be one without discrimination, without ethnic divisions, but with relative freedom and openness. It would be as one scholar puts it as 'a new Bumiputera', a definition that carries no connotations of discrimination against specific groups or ethnicities, but protects and embraces all citizens without exception (Rahman, 2009: 429-

446). Writing after the 2008 election, Azly stresses:

The old concept of '*Bumiputera*' needs to be reconstructed so that we will have a better foundation in preparation for a redefinition in the Federal Constitution – so that the constitution can now protect all rather than the few. Isn't democracy for the powerful few only good for plutocracy? Who is a '*Bumiputera*'? After some 50 years this term should have evolved and changed. The base and suprastructure, the ideology and material foundation, and the body and spirit of this nation state called Malaysia have changed (Ibid.: 439).

To do this, in light of the many policies that still remain, such as the 'centralistic' federation system, Bumiputera Supremacy, and the well-entrenched draconian acts, requires sufficient political strength, greater social participation and leadership of integrity. A balance in political strength between two parties or two coalitions in the future may well symbolize the path to such change. On the other hand, from the perspective of Islamic scholarship, the reality in Malaysia (and possibly also in other places) and the fundamental changes hoped for, we are challenged to reinterpret the construction and relationship between the rather dynamic concepts of Islam, the state and society. In fact, we are even challenged to reinterpret the almost untouchable and taboo concepts of *dhimmi* and *harbi*. No matter the strength these two concepts have as doctrine, they both shift and seem to progress as they adapt to social movements both within Muslim societies and from outside influences. We must continue to open up this kind of 'official closed corpus' Pandora's Box, to borrow Arkoun's word for the *mushaf* Quran, (Arkoun, 2002: 18-39) if necessary by force, and then display its contents to the wider community in order to achieve Islam's ultimate goal of justice.

Endnotes

- 1 See Recep Senturk, "Minority Rights in Islam: From *Dhimmi* to Citizen," in Shireem T Hunter & Huma Malik, *Islam and Human Rights: Advancing A U.S. – Muslim Dialogue* (Washington DC: CSIS, 2005), pp. 67-8; also Richard C Martin, "From *Dhimmis* to Minorities: Shifting Constructions on the non-Muslim Other from Early to Modern Islam" in Maya Shatzmiller (ed.), *Nationalism and Minority Identities in Islamic Society* (Quebec: McGill-Queen University Press, 2005). For a comprehensive discussion of the concept of the *dhimmi* in Islamic society written by a Jew, see Bat Ye'or, *The Dhimmi: Jews and Christians Under Islam* (New Jersey: Associated University Presses, 1985).
- 2 The *dhimmi* concept and its consequences in Islamic law and from a *sharia* perspective are discussed quite comprehensively by Yusuf al-Qardhawi, *Ghair al-Muslimin fi al-Mujtama' al-Islamy* (Cairo: Maktabah Wahabah, 1992); Hasan Al-Mimmy, *Ahl Dhimmah fi al-Hadharat al-Islamiyah* (Beirut: Dar al-Arab al-Islamy, 1998).
- 3 It must be noted that Anwar Ibrahim himself did not choose to be the candidate for Selangor, but instead chose Permatang Pauh in Penang which is far from the center and was once an UMNO-BN base. See Ooi Kee Beng, "Postscript: Anwar's Path to Power Goes Via PermatangPauh," in Ooi Kee Beng, Johan Saranananmutu & Lee Hock Guan (eds.), *March 8 Eclipsing May 13* (Singapore: ISEAS, 2008), pp. 122-6. Anwar's campaign on multiracialism and meritocracy which criticizes BN and won him 70% of the vote in Permatang Pauh is also discussed in this article.
- 4 For a fairly comprehensive analysis of the 2008 election results, a comparison with the 2004 election results and the political implications, see Ooi Kee Beng et. al., *March 8 Eclipsing May 13*.
- 5 The PR have named the results that brought down BN "A Political Tsunami or A Tectonic Shift".
- 6 All of Anwar Ibrahim's thoughts discussed above were taken from the 12 page A4 sized leaflet "*Agenda Ekonomi Malaysia: Gagasan Pembangunan*/The Malaysian Economic Agenda: An Idea for Development" that was printed in mass during the election

campaign to be distributed to all Malaysian regions. It offers PKR's ideas for reforming and changing Malaysia, which then formed the basis for the PR alliance. I also attended several of Anwar's speeches on various occasions throughout October- December, both in Kuala Lumpur and in other states.

- 7 Sammy Vellu, the general head of MIC for 20 years during which he was elected Member of Parliament, lost his seat in parliament during the 2008 election.
- 8 For a complete discussion of the unjust treatment of Anwar Ibrahim see Pawancheek Marican, *Anwar on Trial, In the Face of Injustice* (Kuala Lumpur: Gerak Budaya Interprise, 2009).
- 9 Syed Husin Ali notes that there are several draconian acts including the ISA, Official Secrets Act (OSA), Police Act (PA), Trade Union Act (TUA), and the University and University Colleges Act (UUCA) which limit freedom of expression and freedom to organize, in addition to the Press Law. See Syed Husin Ali, "Introduction: National Unity and Recent Ethnic Conflict," in Syeh Ali Husin Ali, *Ethnic Relations in Malaysia: Harmony and Conflict* (Kuala Lumpur: SIRD, 2008), p. xi.
- 10 See Syeh Husin Ali, "Authoritarian State and Ethnic Violence," in Syed Husin Ali, *Ethnic Relations in Malaysia*, pp. 76-80. The short time lapse between Anwar Ibrahim's release from jail and his involvement in the election is seen by a number of observers as a primary factor in the widespread sympathy he received and its impact on the election results.
- 11 Interview with Fathi Aris Omar, 3 December 2009. Fathi is the senior editor of the independent online media *Malaysia Kini.com*. Formed in 1998 during the reformation era, it is known for opposing the government in power and was run by reformation activists. Fathi himself is also a reformist who refuses to be associated with political parties, including the opposition party, preferring instead to remain independent. According to Fathi, only online media has escaped government repression through the Press Law, even though *Malaysia Kini* has been raided by police for publishing reports criticizing the government.
- 12 The deep conflict between Dr Mahathir Mohamad and Abdullah Ahmad Badawi (PM at the time) is documented in Nathaniel Tan, *Mahathir vs. Abdullah: Covert Wars and Challenged Legacies* (Kuala Lumpur: Malaysiakini, 2007).
- 13 For a more detailed explanation of "Islam Hadhori" see Mohammad

Hashim Kamali, *Civilization Renewal: Revisiting the Islam Hadhari Approach* (Kuala Lumpur: IAIS, 2nd rev. ed., 2009). Professor M Hashim Kamali is CEO of IIAIS, Pak Lah's think tank which came up with the concept of Islam Hadhori as the vision of Malaysian Islam and UMNO.

- 14 A comprehensive discussion of Muslims as minorities during the time of the Prophet Muhammad can be found in Muhammad Yasin Mazhar Siddiqi, *The Prophet Muhammad SAW: A Role Model for Muslim Minorities*, (Leicestershire: The Islamic Foundation, 2006). And for a discussion of Muslim minorities from the perspective of Islamic law in the period after that era and until just before the fall of the Ottoman Empire see Khaled Abou El Fadl, "Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from 8th to 17th Century CE / 2nd to 11th Century Hijrah," *MUIS Occasional Papers Series*, Singapore, 2006.
- 15 Bat Ye'or, *The Dhimmi*. Contrast this with Muhammad Yasin Mazhar Siddiqi, *The Prophet Muhammad SAW*.
- 16 Qardhawi, *Ghair al-Muslimin*, p. 6 [Quran: al-Mumtah} anah (8-9), al-Ankabut (49), and al-Rum (21)].
- 17 Quran: al-Taubah/9 [28-29]. See also Martin, "From *Dhimmis* to Minorities," p. 4. This division eventually led to the emergence of several minority sects within Islam itself. *Ibid.* p. 7.
- 18 Qardhawi, *Ghair al-Muslimin*, p. 49; Quran: al-Baqarah/2: 272.
- 19 Timothy Waters, "Reconsidering *Dhimma* has a Model for a Modern Minority Rights Regime (with Some Notes on the Implications for Human Rights)", 30 October 2006, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=941553, accessed 06/10/09. The article is said to be published in the forthcoming book by M. Habibi Modjandeh (ed.), "Theoretical Foundations of Human Rights".
- 20 Interview with a number of well-positioned men, including YB Dato' Hj. Mohd Amar B. Nik Abdullah, deputy chairman of PAS and deputy Prime Minister of Kelantan (28/12/09). Interview with Professor M Hashim Kamali (24/12/09) and Professor Osman Bakar (21/12/09), CEO and deputy CEO of IAIS, both of whom said that the *dhimmi* issue had never been discussed openly because it was too sensitive. However, Husin Mutalib, in *Islam Etnisitas: Perspektif Politik Melayu [Ethnic Islam: The Malay Political Perspective]* (Jakarta: LP3S, 1995), pp. 103-50, writes that PAS took up the issue after the party's first win in Kelantan in the 1974 election, but that all discussion was from a *sharia* perspective

that tended to be judgmental. As such it did not last long as it was considered too sensitive and counterproductive, in addition to being contrary to the government's *Bumiputera* program. PAS then lost Kelantan in the following election. However, Husni writes in the same book and in another, *Islam in Malaysia: From Revivalism to Islamic State*, Singapore, Singapore University Press, 1993, pp. 78-117, that PAS did not agree with Bumiputera Supremacy, not over issues with equality in democracy and human rights, but because Islam and Islamic universalism cannot be attributed to just one ethnicity or group. At the same time PAS was advocating Malaysia as an Islamic state with implementation of Islamic Law. See also Fariz A Noor, *Islam Embedded: The Historical Development of the Pan-Malaysian Islam Party PAS (1951-2003) [Vol. 1 and 2]*, Vol. 1 (Kuala Lumpur: Malaysian Sociological Research Institute, 2004).

- 21 K S Jomo, "Whither Malaysia's New Economic Policy?" *Pacific Affairs Journal*, Vol. 63, No. 4 (Winter, 1990-1991), pp. 469-99.
- 22 Ilan Peleg uses the word 'transformation' to refer to the change from an ethnic hegemonic state to equality of all citizens. *Ibid.*, p. 68.
- 23 A comprehensive anthropological approach towards identity, ethnicity and the origins of citizens which has implications for the Malaysian model of citizenship and typology, not to mention political system, is presented in Daniels, *Building Cultural Nationalism in Malaysia*.
- 24 See Ariffin Omar, "Origins and Development of the Affirmative Policy in Malaya and Malaysia: A Historical Overview," in Mason & Ariffin (eds.), *The 'Bumiputera Policy'*, pp. 13-8.
- 25 There has recently been some debate over whether the unrest was a natural grassroots reaction to the inequality or was somehow engineered by an invisible hand. One must remember that at the time the Barisan Nasional alliance under UMNO coordination was defeated convincingly in several electorates and even lost several states which they had previously controlled. Strangely, parties supported by the Chinese won in these regions. See Kua Kia Soong, *May 13: Declassified Documents on the Malaysian Riots of 1969* (Kuala Lumpur: Suara Komunikasi, 2007).
- 26 This kind of approach had been implemented since independence, but under PM Tunku Abdul Rahman from this time and up until the racial unrest of 1969, it was felt that the approach had not significantly increased Malay economic control, in part because

- of corruption and cronyism. See Ariffin Omar, "Origins and Development of the Affirmative Policy in Malaya and Malaysia," in Mason and Ariffin (eds.), *The 'Bumiputera Policy'*, pp. 18-22.
- 27 See for instance Jomo, "Whither Malaysia's New Economic Policy", pp. 469-99.
 - 28 See Ariffin Omar, "Origins and Development", p. 18-9. According to Ariffin, the lack of change in the economic structure between the *pribumi* and Chinese under Tunku Abdul Rahman was because Tunku was still under the former shadow of English colonizers and because of strong lobbying by the Chinese via their party (MCA) within the BN coalition. It seems that this was what Mahathir was criticizing for being cronyism and nepotism. See also Jomo, "Whither Malaysia's New Economic Policy," pp. 469-99.
 - 29 Ramasamy, "Nation-Building in Malaysia", p. 156.
 - 30 A number of scholars argue that the move to include Sabah and Sarawak and push Singapore out of the Federation of Malaysia was politically engineered to make ethnic Malays/*pribumi* the clear majority, in order to implement very strong pro-*pribumi* policies. See *Ibid.* p. 123.
 - 31 Advertising was massive, from stickers on public transport and private vehicles, billboards on main roads, signs on shops and houses, in addition to advertising in all forms of media (print, electronic and online). Ads were even played in cinemas before movies commenced, several mass events were held at all levels, including national and state. The PM himself gave fiery speeches at these events, the first held in Perak on 18 October 2009 and attended by more the 50,000. The opposition criticized the large turnout, arguing that they were paid to attend. *New Strait Times*, 18/10/09.
 - 32 Nearly all electorates in the two states were under UMNO/BN control. *Bernama* News Office, 12/09/09.
 - 33 Kok Wah calls Malaysia the most centralistic federation in the world. For an analysis of the weaknesses and demands for change of the Malaysian Federation see Francis Loh KokWah, "Restructuring Federal-State Relations" in Francis LohKok Wah, *Old Vs New Politics in Malaysia: State and Society in Transition* (Petaling Jaya: SIRD, 2009), pp. 3-20.
 - 34 Anwar Ibrahim's speech as leader of the PR coalition during the first Convention of Pakatan Rakyat, 19 December 2009, Selangor.

See also “Memahami Wang Ehsan & Perlanggaran Perjanjian Persekutuan,” at <http://www.anwaribrahimclub.com/2009/11/memahami-wang-ehsan-perlanggaran-perjanjian-persekutuan/>, accessed 15/01/10.

- 35 According to Yusmadi, analysis by the State Auditing Agency of the first year of the new government after the election, those states under PR control (Penang, Selangor, Kelantan and Kedah) had the highest transparency, efficiency and least corruption. Interview with a PKR MP from Penang, Yusmadi Yusoff, 14 December 2009. However, the analysis was only of the first year and, Yusmadi continued, there were still a lot of challenges PR would face in maintaining and increasing their positive image in the wider society in the coming years.
- 36 Anwar Ibrahim’s opening speech at the symposium and Interview with the director of the Institute for Policy Studies, Khalid Jafar, 19 November 2009.
- 37 According to Khalid Jafar, Selangor has already begun to remove the requirement for students and civil servants to attend BTN indoctrination sessions in realization of PR’s promise and strong desire for reformation. Interview with Khalid Jafar, 21 December 2009. For a short and comprehensive discussion of the BTN see Azly Rahman, “On the Problem of ‘Ketuanan Melayu’ and the Work of the Biro Tata Negara,” in Lim Teck Ghee et. al., *Multiethnic Malaysia*, pp. 271-87.
- 38 All of PR’s promises and plans were detailed in the written draft “The First Convention of Pakatan Rakyat” 19 December 2009 in the MBSA Shah Alam Auditorium, Selangor.

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Interview

Chandran, Premesh or Prem (ethnic Indian), often known as Prem, CEO of *Malaysia Kini.com*, a leading independent online media company in Malaysia, December 15th 2009.

Jafar, Khalid, Acitivist of PKR in Kuala Lumpur. 19 November 2009 & 21 December 2009 and many times informal meeting with him.

Othman, Mansor, Deputy Prime Minister of Penang from PKR, 19

December 19th 2009.

Omar, Fathi Aris, December 3rd 2009. Fathi is the senior editor of the independent online media *Malaysia Kini.com*. Formed in 1998 during the reformation era, it is known for opposing the government in power and was run by reformation activists. Fathi himself is also a reformist who refuses to be associated with political parties, including the opposition party, preferring instead to remain independent. According to Fathi, only online media has escaped government repression through the Press Law, even though *Malaysia Kini* has been raided by police for publishing reports criticizing the government.

Yusmadi Yusoff, a MP of PKR from Balik Pulau, Pulau Penang. 14 December 2009 and many times informal meeting with him between October – December 2009.

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CHAPTER VI

ISLAM, MINORITIES AND POLITICAL IDENTITY IN SINGAPORE AND BALI: BEYOND THE PUBLIC SPHERE OF SHARIA

Introduction

The changes brought about by globalization and democratization have given minorities within nations or specific units of governance the opportunity to advocate their political identities and aspirations. Islam is unique compared to other religions in building a political identity as it has conceptually not recognized or has debated the separation of religion and state. Islamic identity is thus always related to the solidarity of the *ummah* (Muslim community) and the struggle to form an Islamic state.

In countries with non-Muslim majorities, the Muslim minority has its own desire to develop its own concept and practice for the *ummah* and perception of the state. This paper is based on research undertaken between June and September 2011 on the Muslim minorities in Singapore and Bali, Indonesia. Both regions are gateways to international influence since Singapore is a world trade center while Bali is Indonesia's tourism center.

Singapore and Bali: Two Unique Situations

Singapore and Bali are two areas in Southeast Asia which have, besides Bangkok in Thailand, the easiest access to globalization's various values and forms, including discourse on Islam.¹ This occurs both through information technology and direct contact with people who come from across the globe, including from the Middle East and Africa of which the majority are Muslim, for tourism, trade and education.

Singapore and Bali are both surrounded by countries and provinces with Muslim majorities. Singapore is encircled by Malaysia, Indonesia and South Thailand, while Bali is flanked by

the Muslim majority islands of Lombok and Java. Consequently, not only do they have to deal with the interests and temperament of their neighboring Muslim states and communities, they also have to accept migration from those regions. Lee Kuan Yew, former Prime Minister and 'Senior Minister' of Singapore, said of the nation "we're not a normal country." (2011: 25) Not only is Singapore a small country with an immigrant Chinese majority that its neighboring countries with their native Muslim populations find almost undesirable, but it depends on Malaysia and Indonesia for clean water and raw materials.

Both Bali and Singapore have diverse populations in terms of religion, ethnicity, race and both have immigrant and native of populations. Bali and Singapore also both have Muslim minorities, which are the largest of all minorities in each region. The majority in Bali is Hindu, Balinese and native, while in Singapore the majority is Buddhist and Tao, Chinese, and immigrant. Muslims make up about 15 percent of Singapore's population and just under six percent in Bali.

Since the events of 9/11 almost all part of the world and countries and states in the world, including Singapore and Bali in Indonesia, have responded to Muslim communities with great caution and suspicion, which has at times been backed up by local government policies. Bali, where bombs exploded on two separate occasions, one on 12 October 2002 and the second on 1 October 2005, has suffered from protracted trauma since 9/11. The Balinese government and society reacted more stringently than Singapore, in light of the fact that Balinese were the direct target of the international terrorism that quickly became associated with Islam and Muslims.

In Bali, for at least a year, suspicion, prejudice and negative stereotypes of Islam were not only reflected in strict government policies on national identity cards and migrant identification but also led to the emergence of an anti-Muslim movement that encapsulated many aspects of life, political economy, neighborhood

politics and the society at the time. However, this reaction failed, largely due to the demands of Balinese social reality.

For Singapore, a country squeezed in between larger Muslim majority nations with a self-driven economy, there was also strong pressure concerning the influence of Islamic fundamentalism and terrorism. However, Singapore, at least in so far as depicted in Lee Kuan Yew's book (Ibid.: 232-34), rejected aid from the Middle East and Islamic nations associated with the production of fundamentalism and terrorism and set up its own program to serve Muslim interests, including by building mosques and *madrassas*, providing education and economic independence. For Lee, countering terrorism and fundamentalism meant Singapore had to be economically and financially independent, and this included providing services for Muslims.

Between the Public Sphere and Islamic Fundamentalism

Several analyses indicate that Muslim minorities in Europe and in America, or in the West in general, are psychologically depicted as being compelled to sympathize with Islamic fundamentalism, including terrorism, which is a way of countering the West, global capitalism and neoliberalism. After 9/11 this saw an increase in attention and opportunities for the Muslim public sphere in many nations in the world.

A number of Muslim demands in these nations received great attention and some were fulfilled. Of course, others were hindered by majorities and failed.² For Esposito (2003:6), the Islamic public sphere is an imagination of an Islamic state, with the emergence of a public dimension in Islam, and the application of Islamic *sharia* as state law.

Meanwhile Lubeck and Britts (2002) argue that the petro-dollar as a result of the oil boom in the Middle East has influenced the expansion of Islam, particularly the puritan and extreme Wahhabi understanding that originates from Saudi Arabia. At the same time, middle-class movements like the Muslim Brotherhood (Ikhwanul

Muslimin) that began in Egypt and during the Iranian revolution inspired an idea about the establishment of an Islamic public sphere across the world. However, they add that this is related to the continued struggle against colonialism from the 17th century. The aspiration of Muslim minorities in Europe or in the West in general to build a public sphere is thus also a continuation of resistance to post-colonial western dominance.

Butko (2004) places Islamic fundamentalism as a comprehensive counter-concept and counter-practice to western secular politics. He argues that conceivers of Islamic fundamentalism such as Khomaeni, al-Maududi, Sayyid Qutb and al-Banna have done what Antonio Gramsci (2006) describes as a comprehensive counterhegemony to western secularism. Butko sharply draws a demarcation line that completely separates fundamentalist Islamic poitics and western secularism and modernity. However, for Butko, diametrical opposition was anticipated by western intellectuals as shown by Gramsci's discourse.

Influences but at the same time these dynamics bring about new creativity in Islamic movements and scholarship, as seen by the great attention given to studies of local Islam and the combination of discourses and literature from both the West and the Middle East. Other movements have also spread throughout the Muslim community, including movements inspired by Islam that seek to establish interfaith relations in pursuit of dialogue and peace.

Comparing this to the Christian tradition in responding to the demands of modernization, Woodward (2002) suggests that Islam is more flexible and able to formulate a role for religion in the modernization process by taking a middle path. In Christianity, modernization was addressed with a sharp distinction between religion and the state because, according to Woodward, Christian doctrines were unable to accommodate the demands of modernity. Meanwhile Islam has taken a different path to Christianity. Islam has absorbed and accommodated not only peripheral changes, but also doctrinal changes. Controversy within Islam is thus a normal part

of the dynamics of development between a constantly changing society and Islamic doctrine with its own principles.

The West, Islam and Southeast Asia

The above discussion of observers' views reveals different characteristics between Muslims in the West and the Muslim minority communities in Southeast Asia, particularly in Singapore and in Bali, though there are also striking differences between these two. The Muslim minorities in the West tend to come from the Middle East or South Asia and adhere to a particular Islamic understanding which often emphasizes the ritual dimension of Islam. Despite differences in views towards local traditions, the Wahhabis in Saudi Arabia, the Muslim Brotherhood in Egypt and even the Muslim mainstream in South Asia tend to embrace a puritanical model of Islam that is not open to the traditional dimensions of Islam itself that accommodate local traditions.

In this understanding, puritanism and being anti-tradition is seen as part of Islamic progress and modernity. It is this kind of public sphere that dominates Islamic demands for the realization of puritanical Islam in the West in the form of public discourse and implementation of Islamic law or *sharia*. Meanwhile the West itself has no basis of Islamic tradition, either in terms of history or local culture and tradition.

The situation is quite different in Singapore and Bali. Singapore separated from Muslim majority Malaysia in 1965. The majority of Muslims in Singapore are the original Malay inhabitants of the island (Nasir & Aljunaied, 2009; Pereira & Turner, 2010), and many are former members of UMNO, the political party that has been in power in Malaysia until now (Terimo, 2006). Before the British Empire ruled over Singapore, there was an Islamic Sultanate in Singapore and the Sultan's mosque still exists today, next to the Malay heritage site in the middle of Singapore. Islam thus has a strong basis and tradition in Singapore. In fact, Islam is stipulated in the Singaporean constitution as heritage that must be protected by the government (Pereira & Turner, 2010).

Meanwhile in Bali, although the native inhabitants are Hindu and have their own ethnicity that differs from that of the neighboring Muslim majority islands of Java and Lombok, Islam entered Bali at least as early as the 14th century as a result of the relationship between the kingdoms in Bali, particularly the Gelgel Kingdom in Klungkung, and the Hindu Majapahit and Islamic Mataram kingdoms (Saidi, 2002). As a result, in addition to the many Muslim migrants settling in cities like Denpasar and Badung, both centers in Bali, Muslim village communities have lived on the island since the Majapahit and Mataram kingdoms (Budiwanti, 1995). There are also several sites that reflect the acculturation between Hinduism and Islam in Bali (Putra & Wahyuni, 1995).

Government Policy towards Islam

With their unique positions towards Islam, it is no surprise that the Singaporean and Balinese governments have always taken their own stances towards Islam or Muslims, even before 9/11 and the 2002 and 2005 Bali bombings. For instance, in 1965, Singapore split from Malaysia, which had a policy of affirmative action for the Malays, and Lee Kuan Yew as the leader of the new nation immediately implemented the opposite policy, that of meritocracy (Pereira & Turner, 2010). In state policy making, meritocracy was seen as a kind of mantra to elevate Singapore to a level from which it could face global challenges and its regional dependence on Muslim majority countries.

However, because in reality the Malay Muslims in Singapore have always been economically and politically weaker than the Chinese majority,³ they would continue to be left behind precisely because of this policy of meritocracy. Empowerment initiatives were launched, but as they were based on different platforms and had different capacities they achieved varied results.⁴ One interviewee escribed the changes by saying that while the abilities of the Chinese progressed geometrically, the Malays progressed arithmetically. Every year, he

said, although the Malays might progress one hundred percent, the Chinese may have achieved ten times what the Malays had.

However, there is one long-standing policy on Islam concerning provision of facilities for rituals and *sharia* that is still in effect today because it is part of the Constitution. There are at least five elements to the government infrastructure addressing Islam in Singapore, namely the AMLA (Administration Muslim Law Act) as the parent institution, under which is MUIS (Majlis Ugama Islam Singapore, the Singaporean Islamic Council), the Syariah Court, the Mufti (religious legal scholars) and the Mosque and Madrasah Council, in addition to the Haj and Syariah Bank and aid through professional institutions including education institutions, professional associations, religious harmony organizations, Muslim women's groups and so on (Tan 2008). At the same time, in order to preserve inter-religious and inter-ethnic harmony, the Singaporean Government implements strict laws that restrict media and public voices, for instance through the ISA (Internal Security Act) (Ibid.). The Singaporean Government also limits the number of *madrassas* and the number of people who can graduate from religious education institutions due to limited job opportunities.

Perhaps the most difficult policy for Malay Muslims in Singapore was the policy to relocate all Singaporean citizens from traditional villages to apartments in the 1970s, including the Malay Muslims. They had lived for centuries on their village land with their families in relatively homogenous communities, where they frequented the same mosque or house of worship. Almost unrestricted bonds of friendship were formed and it was all tied into the land on which they resided. However, with the relocation they had to leave behind their collective memory, their community, their family bonds. One dimension of the relocation policy was that every complex or apartment building had to accommodate religious, ethnic and racial groups proportionally in accordance with the population composition in Singapore so that they were multicultural and plural. It was thus impossible for the Malay communities to move into one

apartment building with their neighbors and families and share the one mosque as they had done in their villages. The policy forced the Malay Muslims to adjust to a completely new lifestyle.

Meanwhile Balinese society has its own particular characteristic of a solid relationship between tradition, religion and power. Balinese society is separated into the Puri as the center of community power, or those that hold charismatic power or are of the Palace; the Pura (pace of worship), or religious leaders; and the Sudra class, or lay community which acknowledges the Puri and the Pura as their leaders both as religious leaders and political leaders). This system has led to a strong relationship in Balinese society between religion, tradition and politics. The largest political parties like PDI-P (Partai Demokrasi Indonesia - Perjuangan, The Indonesian Democratic Party - Struggle) are almost always led by those from the Puri class. It is thus difficult for other religions and political parties to infiltrate Balinese politics. The long history with Soekarno who founded the Republic of Indonesia and was the leader of PNI (Partai Nasional Indonesia, the Indonesian National Party) which is now PDI-P and is led by Megawati Soekarnoputri, Soekarno's daughter, means that the majority of Balinese follow the party. It is not easy to distinguish between political parties, power, religion and tradition in Bali.

Thus, although Bali is irrefutably a part of Indonesia, it has some degree of autonomy in managing its society. During the New Order, this system was somewhat restricted because of the force and uniformity of the modernization program. Bali's independent spirit emerged at the same time as the implementation of regional autonomy, a product of democratization in 1998. Bali formed its own social structure by reviving the traditional village and sub-village units at the lowest levels of government administration. This led to the issuance of the Local Regulation on Pekraman Villages in 2001. The unit was the lowest unit of governance at the village level and was a new form or transformation of the traditional villages and official villages that the New Order government had imposed.⁵ As occurred in Singapore, facilities were also provided for Muslims in Bali, being a part of Indonesia, to address Islamic rituals and

sharia. The Department of Religious Affairs provided a division for Islam and Islamic Religious Courts in all regencies/cities in Bali to serve Muslim communities. *Madrasahs* and other Islamic schools, and pilgrimage facilities were also provided. Mosques and small houses of prayer or *mushalla* are found in most Muslim communities both in towns and villages. However, after the bombings in 2002 and 2005, residency policies were tightened both by the government and by a society seeking to heighten security. This not only had implications for migrants but also led to caution over the establishment of houses of worship, including for Muslims.

Regional governments brought in KIPEM (Kartu Identitas Penduduk Musliman, Muslim Resident Identity Card) in Bali enacted through a local regulation on Pekraman Villages. All migrants first had to obtain a KIPEM, and from time to time officials from the government or from militias known as Pecalang that were formed to bring back the supremacy of tradition would visit the migrants. Pecalang is a kind of voluntary security force whose members wear traditional clothing and carry traditional weapons such as *keris* daggers. They have the same or slightly greater authority than local government officials. To obtain a KIPEM, migrants have to pay at least IDR 250,000, and the card has to be renewed every year. Every month KIPEM holders have to pay dues of IDR 10,000. They are heavily sanctioned, to the point of exile, if they do not obey the regulations.⁶

In addition, there were movements within society itself in reaction to the migrants, especially Muslims from Java or other places. These movements are known collectively as Ajeg Bali, which is a desire to preserve the original Balinese Hindu religion and traditions and to empower native Balinese (Naradha, 2004). Ajeg Bali has been sponsored by a successful local businessman and media mogul in Bali. Although the movement pursues persuasive measures, it is sometimes manifested in extreme actions such as with the formation of the Pekraman Corporation. The corporation seeks to empower the indigenous Balinese with entrepreneurial skills so as to be able to force migrants out.

The corporation gave funding and equipment for Balinese to sell *bakso* (meatball soup) and *satay* made with pork meat to indigenous Balinese. *Bakso* and *satay* is a special meal for people from outside of Bali, so the project was also intended to force out Javanese and other Muslim traders who sell chicken and beef *bakso* and chicken and goat *satay*. However, according to many people, the project failed because not only could Balinese not cook *bakso* as well as the Javanese, Balinese consumers did not want to buy the food because it was not to their taste. The project only lasted one or two years, after which the Muslim chicken and beef *bakso* sellers and the chicken and goat *satay* sellers from Java or other places returned.⁷

The Muslim Minority Reaction

The Muslim minority struggle over discourse and the public sphere in Singapore and Bali has been far from the formal demands of *sharia*. A large part of *sharia* that Muslims are obliged to follow has been increasingly controlled by the government over the years. Furthermore, the majority has supported these government policies in both Singapore and Bali. Struggle over discourse and the public sphere is more oriented towards securing their lives and addressing their relative backwardness and avoiding interference from other groups. It is undeniable that Muslim minorities have created their own cultural and political identity, but not in competition with the majority or the state and government establishment. They demand to be treated the same as the majority in terms of educational opportunities, job opportunities, career advancements and political opportunities.

Singapore

A Malay Muslim youth group that calls itself the Reading Group seeks to understand international and regional Islamic discourses on a variety of themes including human rights, the role of women, Malay and Singaporean locality, multiculturalism, pluralism and the ethics of professionalism in Islam. The group consists of young adults from a variety of professions, including lecturers, civil

servants, MUIS employees and justices of the Syari'ah Court who have sufficiently extensive religious education, to technicians and clerks. Meeting in different cafes every week, they study Muslim thinkers, other religious thinkers, and other philosophies, western and eastern alike. They want to discover how Islam can answer contemporary global, regional and national demands in Singapore. They often involve non-Muslim speakers from outside the country.

MUIS, under the Department of Manpower, runs a program in cooperation with the postgraduate program at the UIN (Universitas Islam Negeri, Islamic State University) in Jakarta, Indonesia. The program facilitates a postgraduate course on Islamic Studies, and lecturers from Jakarta travel to MUIS in Singapore and give lectures at the same standard as the UIN postgraduate program. Postgraduate students are religious teachers at mosques or *madrassas* and often have undergraduate degrees in Islamic Studies from the Middle East or Malaysia. Singapore does not currently have a postgraduate program for Islamic Studies that examines in depth Islamic teachings from various aspects including sociology, politics, anthropology, law and other branches of knowledge. Meanwhile those who study in the Middle East often only study religious teachings. The MUIS/UIN program gives these teachers greater awareness about issues pertaining to social communities, politics and culture so that their students in turn will receive a vaster knowledge of Islam.

The Singapore AMP (Association of Muslim Professionals) helps Malay Muslim employees and executives to increase their skills through training sessions so that they are able to compete with other ethnicities, including the Chinese. The association also teaches Muslim professionals not to be egoistic in pursuing their own careers so that they forget about the Muslim community. Meanwhile the MENDAKI Foundation specializes in education empowerment for Malay Muslims and has closely monitored the quality and quantity of education at all levels for Malay Muslims. From these observations and evaluations, the quality and quantity of education for Malay Muslims can then be improved.

Bali

One organization established after the first Bali bombing was the PHMB (Persaudaraan Hindu-Muslim Bali, Balinese Hindu-Muslim Brotherhood). The organization is led by a A.A. Ngurah Agung, young member of the elite of Puri Pamecutan, one of the most powerful and charismatic Puri in Bali. He works with Islamic leaders to establish dialogue and cooperation and find solutions to any impasses between Muslims and Hindus. Agung, as he is usually called, uses the authority he possesses as an elite Puri or Palace member to defend Muslims during disputes or difficulties, whether over social, political or religious issues, such as establishing mosques.

PHMB runs five programs: Advocacy, Death, Residency, Places of Worship, and Finance. The Advocacy Program assists in difficulties experienced by migrants, the majority of whom are Muslim. When applying for a KIPEM migrants often have difficulty as they are asked for more money than the official cost. Sometimes their employers rent them a kiosk or room, and they are intimidated and extorted by groups they do not know or by Pecalang who violate the law. PHMB and its team become involved in such issues and help resolve them. The burial methods for Muslims and Hindus are very different; Hindus are cremated while Muslims have to be buried. The PHMB Death Program helps Muslims overcome the difficulties they often experience in arranging burials. In its Residency Program, PHMB issues membership cards which can be used to show that an individual is protected by the Puri elite and will receive free advocacy if they are intimidated or experience difficulties. Funding is also provided to members if they have difficulty covering the cost of funerals for instance. Muslim communities with sufficient numbers usually require a place to worship and that is not easy. Thus, PHMB often helps resolve such issues through its Places of Worship Program. Members must pay for a PHMB card, but through the Finance Program, card holders can access a bank to obtain business capital to improve their businesses.

Recently in Bali regional associations have also emerged, such as IKAWANGI (The Banyuwangi Family Association) and BAMUS (The Sunda Consultative Body). Banyuwangi is the regency in Java closest to Bali and a large portion of its residents are Muslim. IKAWANGI runs a business training program to increase residents' entrepreneurial abilities, help them gain access to banks, and address their need to rent or buy land for example. The Sundanese are an ethnic group from West Java who are known for their particular devotion to Islam. BAMUS runs the same program as IKAWANGI, and is led by a lawyer. Agus, the leader, often advocates for Muslim communities that experience problems in gaining access to places of worship. He said he has had very few significant problems with this and, in fact, most difficulties were because the Muslims themselves ignored local procedures and social norms.

Conclusion

The discourse and public sphere of the Muslim minorities in Singapore and Bali tend to go beyond the formal demands of Islam as found in developed countries such as in Europe and America. Their demands instead are related to practicalities of life and guarantees of a future such as having a career and a better education. These demands are made both of the government and independently through organizations by competing with indigenous residents and the majority. The strengthening of Muslim identity as evident from the organizations and groups such as the professional groups in Singapore that display a Malay Muslim identity and the regional groups in Bali that also implicitly portray a Muslim identity, are not in a binary position to government policies in general or to social reactions to the globalization of information and the negative image of Islam that arose out of 9/11 and local bombings such as occurred in Bali.

If there are excessive demands for implementation of formal aspects of Islam such as comprehensive and superficial implementation of *sharia* in the form of minarets and the wearing

of *jilbabs*, for instance, it is important to find the reason behind such mobilization. For instance, are demands for education and jobs by Muslim youth in these areas in accordance with the level of education, the need for jobs and requirements for life? Or are there inequalities between classes or groups within society that are difficult to express in normal discourse and the public sphere as a result of cultural, economic and class inequalities?

Both in Singapore and in Bali, the concern of the majority and the government meets minorities in responding to the flow of religious fundamentalism and puritanism in general which threatens locality and tradition that are respected individually and collectively. This concern seems to have come only with the substantial amount of money that was channeled to the two regions but ignored the rights of local residents, both the majority and minorities.

Singapore's government policy shows that professionals need not be spoilt and have all their demands met. Instead, the government assisted by giving a maximum of SGD \$400,000 for institutions such as MENDAKI and AMP only after they showed they were able to fundraise independently. In addition, in order to control the actions of militias or Pecalang towards migrants but to continue to guarantee their existence, the Bali government introduced a regulation formalizing Pecalang as a part of official regulation of demographics and maintenance of social order. In other words, Pecalang are not part of the BADKAMDES (Village Security Aid) which has a special budget from the government. Only time will tell whether this step will achieve the desired results.

Endnotes

- 1 See Azhar Ibrahim, 'Discourses on Islam in Southeast Asia and Their Impact on the Singapore Muslim Public' in Lai Ah Eang (ed.), *Religious Diversity in Singapore*, Singapore, ISEAS, 2008, pp. 83-115. For a discussion of Bali see Henk Schulte Nordholt, *Bali: Benteng Terbuka 1995–2005: Otonomi Daerah, Demokrasi Elektoral dan Idenititas-Idenitas Defensif*, Jakarta: Pustaka Larasan-KTLV-Jakarta, 2007.
- 2 For more information on the discussion of the Islamic public sphere in Europe and the Middle East, both those which gained attention and were successful and those that received negative reactions and were opposed by local majorities, see J. L. Esposito & Fracois Burgat, *Modernizing Islam: Religion in the Public Sphere in the Middle East and Europe*, New Jersey: Rutgers University Press, 2003.
- 3 John L. Esposito, "Modernizing Islam and Re-Islamization in Global Perspective," in Esposito, J. L. & Fracois Burgot, *Modernizing Islam: Religion in the Public Sphere in the Middle East and Europe*, New Jersey: Rutgers University Press 2003, p. 6.
- 4 It is this relationship that the Malaysians use as an argument for implementation of affirmative action for Malay citizens or Bumiputera.
- 5 See for instance Michael D. Barr and Zlatko Skrbis, *Constructing Singapore: Elitism, Ethnicity and the Nation-Building Project*, Copenhagen: Nias Press, 2008, particularly pp. 41-50.
- 6 I Gde Parimartha, "Memahami Desa Adat, Desa Dinas dan Desa Pakraman: Suatu Tinjauan Historis," *Inauguration Speech at Udayana University*, Bali, December 2003.
- 7 For a discussion on Pekraman Villages and Pecalang see Nyoman Widyani and I Ketut Widia, *Pecalang: Desa Pekraman di Bali*, Denpasar: SIC, 2002. See also I Ngurah Suryawan, "Bisnis Kekerasan Jagoan Berkeris: Catatan Awal Aksi Pecalang dan Kelompok Milisi di Bali," in Okamoto Masaaki and Abdur Rozaki (ed.), *Kelompok Kekerasan dan Bos Lokal di Era Reformasi*, Yogyakarta IRE-CSEAS, 2006, pp. 91-111.

- 8 Nengah Bawa Atmadja, *Ajeg Bali: Gerakan, Identitas Kultural dan Globalisasi*, Yogyakarta: LKiS, 2010, especially pp. 57-112. See also Yudhis M. Burhanuddin, *Bali yang Hilang: Pendatang, Islam dan Etnisitas di Bali*, Yogyakarta: Impuls, 2008; Nyoman Putrawan (ed.), *Pilar yang Rapuh. Bali Yang Runtuh*, Denpasar: Manikgeni, 2011; and Nuoman S Pendit, *Membangun Bali: Menggugat Pembangunan di Bali untuk Orang Jakarta Melalui Jalur Pariwisata*, Denpasar: Pustaka Bali Post, 2001.

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CHAPTER VII

POST-COLONIAL CITIZENSHIP AND MINORITY DILEMMAS: REFLECTING ON THE CASE OF SABAH AND THE SULU SULTANATE INCIDENT

Introduction

Like a bolt out of the blue, on August 11th 2013,¹ an army of the Sulu Sultanate, under the command of Raja Muda Agbimuddin Kiram, a brother of Sultan Jamalul Kiram III of the Sulu Sultanate which now has become a part of the Republic of the Philippines, claimed a territory in Sabah, a state of the Federation of Malaysia. At the time, people were startled and wondered what prompted his actions.

Nonetheless, it becomes more understandable as we reflect the issues of territorial integrity in a nation-state in non-western countries. As opposed to the conditions in western countries, nationalism and how the nation-state was established in the East or former colonies tends to create a time bomb. In western countries, the nation-state is established based on historical and settled territorial divisions. While in many non-western countries, the nation-state limitations are determined based on the territorial division of colonies and cause conflicting issues between religion, ethnicity, traditional power, and family.

In the Sulu Sultanate and Sabah, an originally dominant majority territory suddenly became the minority and subordinate. The same thing happened to the Patani Sultanate of Southern Thailand. These are only two of many similar cases in post-colonial countries. On the other hand, citizenship in a nation-state is in line with a conventional individualistic notion as a typical western characteristic that tends to be homogeneous by ignoring collective rights (Kymlicka, 1995: 57-58). However, common characteristics of eastern nations are a strong collective relationship and a tendency to constantly be plural

and multicultural in every region (Kymlicka, 2001). A fundamental problem in the former colonial countries of the East is the way to treat minorities with cultural, linguistic, religious and ethnic differences from the majorities. This has occurred in Mindanao, Philippines and Patani, Thailand, along with some parts of eastern Indonesia.

Globalization and democratization have encouraged the strengthening of minority demands in various countries, covering not only migrant minorities but also the indigenous oppressed in these nations (Kymlicka 1995). Democracy tends to be hegemonized by the majority in crucial issues to do with cultural, linguistic, ethnic and religious rights. The case of the Sulu Sultanate trying to take over Sabah is evidence of this. While it was highly improbable to succeed and naïve to consider, it shows that there is still a great deal of tension and inherited conflicts that originated from the formation of an incomplete nation-state.

The demands for the reformulation of territorial boundaries, that are currently based solely on territorial borders causing a number of problems and demands to respect the minority position, are new trends of post-liberalism movements in the form of multiculturalism within nationalism and the nation-state. In fact, this has also occurred in the West as in the cases of the Scottish relationship to Great Britain and the minority position of Quebec in Canada. The invasion of Sabah by the Sulu Sultanate is an interesting case to be discussed as a new trend and presumably a warning to non-western post-colonial countries concerning the possibilities of issues occurring in the future.

Historical Background

The Sulu Sultanate was established in the mid-15th century, approximately two centuries after Islam was introduced to the region. In the mid-16th century, Spanish royal armies landed in the region now known as the Philippines, to claim it as a colony. At that time, Islamic preaching had reached Manila in the north,

which is now the capital of the Philippines, although it was still fairly limited and Muslims were a minority. Within four centuries, Spain was successful not only in colonizing but also introducing Catholicism throughout most regions, except in the predominantly Muslim islands of Mindanao. Some Mindanao people have stated that they fought against Spanish colonization for four centuries (Tauzon, 2008).

The Sulu Sultanate, centered on Sulu Island with Jolo as its capital and an overnight boat ride from the mainland of Mindanao, was never considered to be submissive and colonized by Spain. Nevertheless, when Spain lost the war with the United States in fighting over the colonies, in the treaty of Paris in 1898, Spain relinquished the whole of Mindanao, including the Sulu Sultanate, as part of the submitted territory of the Philippines. Consequently, the people and the Sulu Sultanate were furious about the handover and considered it to be an act of robbery. They claimed that the war continued for half a century under American colonization. However, on the handover of sovereignty by the United States to the Philippines in 1947, the region of Mindanao including the Sultanate of Sulu was included in the new nation (Tauzon, 2008; Yegar, 2002).

Consequently, Sultan Sulu sent a letter to the US President and Congress stating the Sultanate's intention not to participate in Philippine independence and demanding to remain under US occupation. His letter was ignored and thus, the people of Sulu, once again, continued the struggle for independence from the Philippines. In the minds of the Sulu or Mindanao people, had the Sulu Sultanate not joined the Philippines, it would have become an independent country like present day Brunei Darussalam.

Sabah: Britain vs the Sulu Sultanate

North Borneo, currently known as Sabah and Sarawak, was the territory of the Sulu Sultanate at least until 1878. At this time, the British were colonizing the Malay Peninsula. To avoid confrontation

and occupation by the British, the Sabah area was leased to a British company owned by Von Overbeck and Dent in 1878.

The merger of Sabah and Sarawak into the Malaysian Federation in 1963 ignored the lease agreement between the Sulu Sultanate and the British company. Subsequently, the Sulu Sultanate, until recently, still claimed to be the rightful owner of Sabah, that it was only leased by the British and the lease was handed over to the Federation of Malaysia.

The Migration Policy of United States—Philippines and The Handover of Land Rights

During its colonization of the Philippines, the United States enacted migration policies in order to build plantations and agriculture in the region of Mindanao, which was still unoccupied and sparsely populated. The migrants were poor and predominantly Catholic citizens of Central and North Philippines. During the US colonial period (1898–1947), Mindanao was more than 80 percent Muslim with the rest being Catholic and indigenous, known as Lumad, decreased down to 50 percent because of the vast migration associated with the US government's industrialization program. In the post-independence period, the migration policy was continued by the Philippines government resulting in even more startling figures. In the period from independence to the 1970s, the Muslim population in Mindanao dropped to seventeen percent and ten percent were Lumad, while the population was dominated by Catholic migrants (Tauzon, 2008).

The problem lay not only with the massive and sudden influx of migrants, but also with the simultaneous and massive handover of land ownership, both legal and illegal. The establishment of Church facilities and provision of Catholic education also occurred. While plantations recruited migrants as workers and provided the best schools for their children, the predominantly Muslim indigenous inhabitants started to get marginalized both as workers and in accessing education.² Muslim inhabitants were generally

resistant towards Catholic and secular schools. Therefore, a process of marginalization occurred, and even a professor at Mindanao State University, Iligan City, B.R. Rodil identified this issue as a minoritization process (Rodil, 1994; Rodil, 2003).

In 1968, there was a massacre of army recruits – some stated that there were 60 casualties while others stated 30. All of them originated from Sulu and were recruited by the Philippine Armed Forces for a special mission which was to take Sabah from the Federation of Malaysia and return it to the Philippines as it was considered to be the property of the Sulu Sultanate and therefore belonged to the Philippines.

After several months being in camp and being trained by the Philippine Armed Forces, under the command of a Catholic, the deployment time to free Sabah came. Apparently, the recruits all refused to invade Sabah because they assumed that Sabah inhabitants were their relatives and they had both genetic and historical bonds; that is they were Malays and Muslims under the Sulu Sultanate. The recruits were closer in all aspects to Sabah inhabitants than to the Central and Northern Philippines, and even to the central government. Consequently, it was highly unlikely for them to be hostile to their own brothers. It is also important to note that the adjacent islands of Sulu and Tawi-Tawi are closer to Sabah than to the Central and Northern Philippines, and also to the inhabitants of the Mindanao mainland. As they refused to perform their duty as soldiers they were massacred in an event later known as the Jabidah Massacre. There was one survivor of the massacre who escaped and reported his testament to the media (Yegar, 2002).

The Demands of Independence

The disclosure of the Jabidah Massacre provoked Mindanao nationalism to turn into a movement for independence from the Philippines. There was a unifying figure who was then a professor at the Institute of Islamic Studies at the University of the Philippines, Nur Misuari. He was represented by Hashim Salamat, an alumnus of

Al-Azhar University, Egypt. An organization called MNLF (Moro National Liberation Front) was established to demand independence of Mindanao. The title of 'Moro', which had been an insulting term for Muslims used by the Spanish, was validated as a symbol of pride and struggle: the Moro Nation.

Nonetheless, Ferdinand Marcos, the President, refused to accept the embarrassment by enacting the Emergency Act of 1972 enabling him to mobilize all forces to eradicate the presumed separatists. According to some Mindanao people, during the five centuries of war since the arrival of the Spanish, Mindanao had never experienced destruction as it did when the Emergency Law was enacted. This was because the army did not only attack the MNLF forces, but also civilians, mosques and *madrassas*.

Although the casualties were from both sides, a peace treaty was finally achieved between the MNLF and the Philippines Government in 1976. It was facilitated by Libya under President Muammar Gaddafi, who was then Chairman of the OIC (Organisation of Islamic Cooperation) and became known as the Tripoli PA (Peace Agreement). Under the agreement, the Philippines Government would grant autonomy in Muslim-majority Mindanao to the MNLF as Moro representatives. The MNLF withdrew their demand for independence and instead demanded autonomy with agreed-upon territorial boundaries, the realization of which would be discussed later.

The agreement was apparently not unanimous; Hashim Salamat, Nur Misuari's deputy in the MNLF, left the MNLF taking nearly half the MNLF supporters and armed forces to form a new organization, the MILF (Moro Islamic Liberation Front). Malaysia was allegedly involved in the establishment of the MILF because Nur Misuari had scheduled, if MNLF was independent or autonomous, they would restore Sabah to Sulu or Mindanao. Meanwhile, the MILF refused to compromise with the GRP, still demanding independence, and refusing to participate in any government structure (Tauzon 2008).

The agreement failed to be implemented for at least three reasons. Firstly, Marcos issued a new policy on regional divisions throughout the Philippines in which Mindanao was divided into two regions. This fact confuses the MNLF's claim over the regional autonomy in Mindanao that has been clearly mentioned in the Tripoli PA. Secondly, the central government required the realization of autonomy through a district/city-based referendum that was not listed in the Tripoli PA. Thirdly, Marcos used traditional leaders (*datu*) to split Misuari's leadership in the MNLF, adding to the weakening effect of the MILF's establishment. Nevertheless, the implementation of autonomy through referendum was imposed by Marcos who ignored protests coming from both the MNLF and the MILF.

While tension and war seemed inevitable, President Corazon Aquino drew them back to the negotiating table. Facilitated by Indonesia, an agreement was made in 1989 to rectify the failure of the Tripoli PA implementation under Marcos. However, the agreement also failed to be realized because the central government once again required a referendum that was rejected by the MNLF. Nonetheless, the plebiscite was imposed by law issued by Congress. An independent body was set up to run the plebiscite to determine what areas would be included in the ARMM (Autonomous Region in Muslim Mindanao).

The referendum of ARMM based on district/city groupings caused the ARMM area to be fairly complicated. There were provinces that joined the ARMM, yet some districts and cities, and even provincial capitals did not take part. This was the case for Kotabato, as the capital of Magindanao; and Isabela as one of the cities in the Sulu province (now known as the capital of Basilan province). While Magindanao joined the autonomous region of the ARMM, Kotabato as the capital did not participate. Surprisingly, the capital of ARMM is also located in Kotabato which in fact it was not an ARMM region. In reference to the results of the referendum, it is predictable that the districts/cities with populations of fewer

Muslims to Catholics in general did not join the ARMM. Complexity also occurred in the implementation of elections which had a different schedule to the national elections (Yegar, 2002).

Nevertheless, around seven years later, President Fidel Ramos succeeded in bringing Nur Misuari to the ARMM with a promise of returning the claim of autonomous regions listed in the Tripoli PA in 1976 and support to become the governor through the ARMM election. However, Ramos's approach to the MNLF and Misuari was not sustainable as the ARMM budget proposed by Misuari was only partially granted. Therefore, Misuari was only able to fund routine expenses such as salaries and government operations. A number of authors have criticized Misuari as a nepotistic and corrupt governor, while in fact, his failure had many reasons including the 1997 Asian monetary crisis and the predetermined national budget. Subsequently, it was not possible to grant all ARMM requests under the control of Misuari as the ARMM budget was not fully supported. Misuari lost his patience, resulting in a violent act. An intelligence investigation found that Misuari was involved as the governor and he was eventually imprisoned for this matter (Ibid.).

In fact, the Philippines central government did not sever its relationship with the MILF. In 2003, with a re-facilitation by Libya, a Memorandum of Agreement was signed in Tripoli by the Philippines Government, under president Gloria Macapagal-Arroyo, and the MILF. The content of the agreement is that the MILF withdrew its demands for independence in favor of autonomy, and continued the negotiation of what form autonomy would take. The agreement later became known as MOA-AD (Memorandum of Agreement on Ancestral Domain) (Tuminez, 2007). The MOA-AD negotiation failed in 2009, yet it was subsequently revised and enacted in October 2012 with facilitation from Malaysia and international civil society organizations.

Early 2010, I met both the supreme leader of the MNLF, Nur Misuari, and the opposition of Musuari in the MNLF group, Muslimin Semma, as well as MILF's highest leader, Ir. Ibrahim

Murod, Hashim Salamat's successor at the heavily guarded Camp Abu Bakar. I also met the opposition leader of Ibrahim Murod in MILF who has Tausug ethnicity while Ibrahim Murod is ethnically Mindanao. At the time, Nur Misuari was still hoping to regain power in the ARMM, while Muslimin Semma stated that he would join anyone who gains more rights for Moro's interests. Ibrahim stated that this agreement was the most reformist from the MILF perspective. Another option was to return to the separatist group or to the battlefield. Meanwhile, the opposition of Ibrahim refused to compromise as independence is not negotiable.

I also met Nur Misuari twice before the signing of the agreement between the MILF and the Philippines Government in 2012 and twice more after the signing, in Jakarta and Manila. At the two meetings prior to the signing, it seemed that Misuari still hoped that MNLF could regain control over ARMM, and he also stated that the draft bill was being discussed in the Congress to renew the existence of ARMM. However, at the two meetings after the 2012 agreement, Nur Misuari looked frustrated and seemed to be running out of choices other than to hope the ARMM had been practically taken over by the MILF.

In the MoA 2012, the ARMM was merged into the MILF's version of the autonomous region. There was practically a handover of autonomy from the MNLF to the MILF without including any discussion regarding the MNLF. At the end of November 2012, I had an opportunity to go to Manila and Mindanao; including Basilan. Both Nur Misuari and his supporters claimed to never have any discussion and negotiation concerning the MILF's agreement signed in October 2012. Conversely, the opposition stated that they would follow the agreement. The question on this matter is regarding the role of the Indonesian Government as Indonesia was the mediator for realizing the ARMM, while mediation was subsequently taken over by Malaysia through the MILF.

What Happened to the MNLF and the MILF?

It is evident that the differences between the MNLF and the MILF are not only within the organizations and ideologies, but also in ethnicity and claims to legitimacy and centers for consolidation. Both the MNLF and the MILF were initially modern organizations led by educated leaders who upheld the principle of meritocracy as a criticism of traditional, feudal, and dynastic leadership in Mindanao. However, as both are pressed by the realities of political flows, they seek their own traditional legitimacy; that is by appealing to ethnic and imperial bases. While the MNLF is based in Sulu with Tausug ethnicity and historical links to the Sulu Sultanate, the MILF is based on the Mindanao mainland with Magindanao ethnicity and historical links to the Magindanao Sultanate. Thus, the MNLF and the MILF are now dealing not only in ideology and agenda, yet also regarding their ethnic differences, imperial legitimacy, and the consolidation of the different centers. The geographic location of the Magindanao Sultanate is closer to the central government although historically, Sulu was more respected and older as the Magindanao Sultanate was only established in the 19th century.

With the accommodation of the Philippines central government towards MILF-Magindanao, the Magindanao Sultanate and an incorporation of the ARMM which belongs to MNLF-Tausug of the Sulu Sultanate, and without any consultation and involvement in the discussion, Tausug members of the MNLF, the community, and the Sulu Sultanate lost hope, including their hope to reclaim Sabah. Meanwhile, the central government remains ignorant, both in the development and improvement of people's welfare and in honoring the Sulu Sultanate. They are not only religious and ethnic minorities in their own country, the Philippines, they are also distant from the center both physically and in terms of development and humanitarian issues.

The attack on Sabah by the Sulu Sultanate might be an expression of this frustration. The target might not be to take control of Sabah, let alone to seize it from Malaysia. Its aim might

be nothing more than to capture the world's attention and expose the oppression and minoritization by the Philippines Government, negligence in securing Mindanao's autonomy in the 2012 agreement, and alienation from the outside world.

Analysis: The Necessity of Radical Change

Nationalism in the nation-state that glorifies territorial integrity as the only definition of territorial boundaries is a manipulative colonial legacy, created in the framework of colonial greed that breaks the boundaries of fraternal relationships of ethnic, religious, family and traditional historical power. Meanwhile, the plurality of citizen members is imposed with uniformity as a unity in an assimilation system by eliminating differences and diversity.

The Sulu Sultanate, and evidently the Moro people in Mindanao in general, is one of the localized, marginalized and minoritized (Rodil, 1994) tradition, not only because of the great distance from the center but also the neglected economic life and the difference in identity and ethnicity with the other populations of the Philippines. Meanwhile, they also feel they have something in common that makes them enjoy building equal and warm relationships with those in Sabah and Brunei with whom they share ethnicity, religion, historical traditional power, family, and territorial proximity. Their relationship in almost every aspect is as close as the relationship between the people on the Timor Leste-Indonesian border on Timor Island who share the Catholic faith, Timorese ethnicity, strong family ties and local traditions.

Solely because they were co-opted forcefully into different nations in post-colonial nation-states, there is a striking prosperity gap between the Sulu and those with whom they share ethnic, religious, and family history in Sabah and Brunei. The loss of expectations, the lack of consideration, in forming the 2012 agreement, of their long-term fate, as well as their poverty and the significant gap in economic distribution in the regions of the country, cause undeniable frustration.

In such circumstances, it seems to be inappropriate for a prosperous country like Malaysia, instead of helping to build the confidence to avoid frustration and provide mediation to achieve their rights sensibly, simply labeled them as terrorists solely because an ideology about territorial boundaries there. A radical change of vision of the post-colonial nation-state concept in the non-western countries, at least in Southeast Asia, is necessary to build an equitable and peaceful region. Not only within the Malay ethnicity, yet also fellow inhabitants of Southeast Asia, including those in Indochina for example in Thailand and Cambodia which encounter clashes at national borders.

Recommendation

Post-colonial non-western countries should establish their own definitions of boundaries in reference to the traditional cultural, multicultural and ethnic, language and religious plurality, as well as fraternal and family relationships, both within the state and between countries. The redefinition is evidently not to do away with respective property rights, rather it is conducted to pursue a vision of the distribution of common prosperity.

Even though Ben Anderson (2003) highly praised Indonesian and Southeast Asian nationalism; for instance, the plurality and multiculturalism as the imagined communities despite being composed of various tribes, languages, religions and islands, yet still succeeding in building a united nation. Nonetheless, it cannot be separated from the authoritarianism of Indonesia's New Order as a part of colonial and western hegemony, as well as the same authoritarianism in Southeast Asian countries over its people, imposing uniformity by neglecting and even eradicating local characteristics along with highlighting their own sectoral egoism of each country. Nowadays, these features begin to emerge in the form of latent tensions in many areas, as in the case of the Special Region of Yogyakarta (Kurniadi, 2009). Therefore, a regulation based on the plural and multicultural realities of the nation and within the

context of the Southeast Asia region is necessary, while eliminating the coercion of uniformity and colonial doctrine without reserve.

At some points, this negligence, in addition to crushing distinctive local traditions, will also lead to a tradition of hatred between groups of people and eventually becomes a threat to the very existence of the nation. Moreover, there is also a threat of extinction of indigenous cultural traditions which later will cause the nation to lose its own traditions and civilization.

There has always been a hegemony imposed by the majority in a nation-state democracy which is based on excessive individual rights. Respecting the cultural rights and traditions as collective rights should, therefore, be the new direction of concepts of citizenship in post-colonial democracies in non-western countries as a strategy for peace and equity of prosperity.

Endnotes

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- 2 This opinion according to Wilson Jr., MAJ Thomas G., *Extending Autonomous Region In Muslim Mindanao to the Moro Islamic Liberation Front a Catalyst for Peace: Monograph*, Kansas, School of Advance Military Studies US Army Command and General Staff College Fort Leavenworth, 2009.

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CHAPTER VIII

THE INTER-RELIGIOUS HARMONY (KUB) BILL VS GUARANTEEING FREEDOM OF RELIGION AND BELIEF IN INDONESIAN PUBLIC DEBATE

Introduction

Substantial changes were rapidly made to the government system and the Constitution following Indonesia's Reformasi (Reformation) democratization process in 1998, particularly as regards political and economic freedom. Push and pull in the relationship between the state and citizens in the religious and cultural realm is, however, far from over yet. The most complicated debates are perhaps about relations between the state and religion and faith: where should the line be drawn on state interference in religion and faith, and how can the government guarantee citizens' rights to religion and faith without discrimination?

The debate is actually a contest between two groups who hold differing ideologies and perspectives on the interpretation of both the 1945 Constitution and human rights. On one side, there is the status quo group - those who want to revert to the nature of relations between the state and religion and faith in Indonesia before Reformasi. This group wants an 'integralistic relationship'²³ between government and citizens, where the state or government can intervene in the beliefs of its citizens. The followers of this approach want to maintain the orientation and content of the law related to religious life as it was before 1998.

On the other side is the democratic or progressive group, which wants the orientation and content of the law on religion or belief to be adjusted to reflect the constitutional amendments introduced between 1999 and 2002, which are almost in line with various international human rights instruments dealing with civil and political rights. This group believes that the government must guarantee freedoms and protect the individual rights of citizens

to freedom of belief. They demand that all provisions and laws regulating religion or belief be adjusted - as has happened in the political and economic realms - in accordance with the spirit and content of post-reform constitutional amendments. This, they say, should be done by amending the laws or, if necessary, repealing them.

The polarization of these two groups is reflected in the choice of words used in the debates on religious freedom and the Bill itself. The status quo group uses the word *kerukunan* (harmony) in the phrase 'interfaith harmony'. This emphasizes the absence of conflict but gives the opportunity for the government to intervene and ban minority groups that are considered to deviate from mainstream religious understandings, because they are believed to provoke anger and violence - and thus lack of harmony - from the majority. The democratic or progressive group, however, uses the term 'freedom of religion or belief'. This emphasizes the guarantee and protection of the religious rights of all individuals from intervention, whether by other individuals, the majority or the government itself. This terminology also accords with international human rights standards. The choice of terminology of both groups closely reflects their ways of thinking about the religious rights of citizens.

The tendency to polarization between these two perspectives was reflected in the debates that took place during the Constitutional Court hearings in 2009 in relation to an ultimately unsuccessful petition challenging the constitutionality of Presidential Decree No. 1/PNPS/1965 on the Prevention of Misuse and/or Insulting of a Religion (*Pencegahan Penyalahgunaan dan/atau Penodaan Agama*). This Decree was elevated to the status of legislation in 1969 to become Law No. 1/PNPS/1965 and is usually known in Indonesia simply as the 'Blasphemy Law'. The petition for review was filed by a range of individuals and groups whom I see as proponents of the democratic and progressive perspective. They did so not only because the Law was considered no longer in line with the Constitution as amended, but also because many members of minority groups had been the

target of criminal prosecutions and other actions based on the Law.⁴ The prosecutions were overwhelmingly related to art. 156A of the Criminal Code against minorities considered ‘deviant’ (*sesat*) by certain religious groups, vilifying their beliefs, a provision that was inserted in the Criminal Code by art. 4 of the ‘Blasphemy Law’. The Law, according to the progressive group, threatens certain minority groups,⁵ exposing those considered heretical and said to have vilified the majority religion to up to five years’ imprisonment.

In various cases of violent attacks on and persecution of minorities considered to have committed blasphemous acts towards the religion of the majority or otherwise considered heretical, it was members of minority groups who were brought to trial under art. 156A, while those who used hate speech, or committed persecution and violence, against the minorities were either left untouched by the law or received only light sentences.⁶

According to the progressive group, the ‘Blasphemy Law’ and its product, art. 156A of the Criminal Code, allows the government to interfere with freedom of religion and faith in the dimension of belief, not only expression. They argue that belief (as opposed to its public expression) should, from a human rights perspective, constitute a non-derogable right or a right that cannot be restricted for any purpose. The progressives therefore wanted art. 156A to be repealed or replaced by a Law that, in their view, better accords with the strong endorsement of human rights enshrined in the amended Constitution.

There is one article in the Criminal Code that is in line with the arguments of the progressive group: art. 156. This was inherited from the colonial government and provides that law enforcers and the court must protect minorities from calls for hate, attacks and persecution from other groups, whether other minority groups or the majority, and punish those who commit such acts:

“Those who deliberately, in public, express feelings of hostility, hatred, or contempt against one Indonesian ethnic group or more shall receive a maximum four-year

imprisonment with a maximum fine of four thousand five hundred rupiah.”

Unfortunately, in many cases of religious violence in Indonesia, this article is almost entirely displaced by art. 156A. and those who are punished are not those who provoke, insult, attack or persecute minorities (art. 156), but those accused of being heretical who have become the target of attacks or violence (art. 156A).

In the Cikeusik case,⁷ for instance, where Sunni Muslims were involved in a fatal mob attack on a small Ahmadi community, the main perpetrator and intellectual actor accused of hate speech and violent persecution that led to two deaths was punished with just six months’ imprisonment. His pre-trial detention period was deducted from this, so he walked free as soon the verdict was given, as he had already been detained for a period equal to the sentence (Komnas HAM, 2011; LBH *et al.* 2012). One of the reasons the judges gave for this light sentence was that the perpetrator was an Islamic religious leader or *ulama*, so his ‘service was needed by his community’ (Komnas HAM, 2011; LBH *et al.* 2012). The same thing happened in the case of persecution of the Shi’a minority in Sampang, Madura, in 2011, and again in 2012. In the case of the first attack in 2011, the attackers were not prosecuted but the Shi’a leader was sent to prison for blasphemy (Rumadi *et al.* 2010).⁸

The petition for review by the Constitutional Court of the Blasphemy Law was filed in 2009 by four leading Islamic figures and seven NGOs and their supporters, who included prominent intellectuals and a range of religious groups, Muslims and non-Muslims from various sects, as well as leaders of minority religions. The applicants thus cannot be said to represent only non-Muslims or minorities who had been discriminated against, or victims opposing the majority.⁹

On the other side was the status quo group, who sought to defend the Blasphemy Law and thus art. 156A of the Criminal Code. In addition to government religious bodies, such as the Ministry of Religious Affairs and the DPR (Dewan Perwakilan

Rakyat, People's Representative Council), and quasi-government bodies, such as MUI (Majelis Ulama Indonesia, Indonesian Council of Ulama), most mainstream Islamic mass organizations were in the latter group. They were supported not only by Muslim groups, but also by some minorities such as the Confucian or Khonghuchu community and government institutions. Thus, the defenders of the Law also cannot be said to represent a single group.

The argument put by the status quo group was that the Blasphemy Law was not discriminatory or contrary to international human rights instruments of civil and political rights or the amended Constitution. They argued that it is normal for a state and government to protect the religion of the majority and prosecute those who deviate from mainstream belief. According to this perspective, prohibition of certain minority sects, or limits on their activities, are not in the field of belief or faith but expression. For instance, the Joint Ministerial Decree (No. 3 of 2008) on the Ahmadiyah¹⁰ does not prohibit belief, but only proselytization and public practice of their interpretation of Islam. Thus, the regulation deals with the expression of belief and not the belief itself. In their opinion, where there is disagreement over the Blasphemy Law, it is a matter of mistakes made in the application of the Law by law enforcers and not the content of the Law itself. The Law, this group holds, in fact, protects minorities from prosecution by other larger groups. They argue that its absence would lead to chaos and that minorities would be victimized even further.

The application of art. 28J of the 1945 Constitution on the limitation of human rights for various reasons based on laws has also been a major subject of debate. This states:

Every person shall have the duty to respect the human rights of others in the orderly life of the community, nation and state. (2) In exercising his/her rights and freedoms, every person shall have the duty to accept the restrictions established by law for the sole purposes of guaranteeing the recognition and respect of the rights and freedoms of others and of satisfying just demands based

upon considerations of morality, religious values, security and public order in a democratic society. [emphasis added]

According to the progressive group, neither art. 156A of the Criminal Code nor the Blasphemy Law are clear about when restriction of 'non-derogable' human rights is allowed, although it must take the form of a law. This is because arguments for the restriction of rights must be in line with art. 19 of the ICCPR, the International Covenant on Civil and Political Rights. Although art. 28J of the 1945 Constitution provides that there is a special exception that goes beyond those provided in international human rights standards, namely 'religious values', the progressive group holds that it is not right to use the interpretation of those words to justify a law allowing government interference in the field of belief and its expression, as does the Blasphemy Law.

According to the status quo group, however, the limitations on religious rights inherent in the Blasphemy Law clearly satisfy the criteria for legitimate restriction. In addition to the fact that it takes the form of a law as required by the international human rights law and art. 19 of the ICCPR, they argue that the absence of the Law would bring about a legal vacuum and would lead to chaos and persecution, and thus minorities would not be protected. They acknowledge that art. 28J provides a basis for allowing limitation of religious freedom that does not exist in the relevant international human rights standard (that is, art. 19 of the ICCPR), namely the factor of 'religious values'.¹¹ According to this group, 'religious values' constitute an area of special exception for Indonesia, because of its unique circumstances.

As mentioned, the Constitutional Court ultimately upheld the Blasphemy Law, accepting the arguments of the status quo group and rejecting those of the progressive group. In particular, it agreed with the argument of the status quo group that the Law satisfies the requirements for limitation of 'non-derogable' rights in art. 28J of the Constitution on the grounds of protecting 'religious values'. The court further agreed that the absence of this Law would create

a legal vacuum and might bring chaos. It also, however, suggested a ‘middle way’¹² should be found to resolve the tensions between the Law’s supporters and its opponents, namely by amending it and adding new provisions. The court claimed that it did not have a mandate to amend the Law or add new articles or phrases, which, it said, should instead be done through the legislative process.¹³ This has not yet happened — and is not likely to at any time in the near future.

Mainstreaming Intolerance and Reinforcement of Article 156A of the Criminal Code

Before discussing the difference in principle between the Inter-Religious Harmony Bill (which is generally in line with the Blasphemy Law and supported by the status quo group) and the values supported by the progressive group, it is useful first to discuss the application of art. 156A, a provision that has become the subject of heated debate in the post-Soeharto era.

As far as can be determined, art. 156A was only used prior to 1998 to prosecute religious vilification in three cases, including the case of HB Jassin and the short story *Langit Makin Mendung* (The Sky Gets Cloudier),¹⁴ and Arswendo Atmowiloto’s *Monitor Weekly* case. These both involved masses of protesters claiming to be from certain religious groups demanding that the accused be prosecuted and putting pressure on the court during legal proceedings (Rumadi 2007). All other cases involving the article took place after 1998, and most after 2005.

The increasing use of art. 156A after 1998 was in line with growing religious conflict and persecution in the early years of the Reformasi era, including, for example, in Maluku or Ambon, Poso and West Kalimantan. Later, there were cases of aggressive intolerance in the form of hate speech and persecution of certain minorities. It is noted here that persecution relating to differences of religion or conviction has been generally directed at minority groups within Islam, such as the Ahmadi and Shi’a sects, and a range

of indigenous religions and beliefs. This raises the question of why intolerance has been increasingly aggressive since 2005. A major part of the answer is that there has been a trend to increasingly stronger religious institutions - both governmental and quasi-governmental - under the administration of President Susilo Bambang Yudhoyono. This is reflected in the support of President Yudhoyono for the monopoly on the interpretation of truth concerning Islam claimed by MUI. The government has been increasingly willing to follow MUI's *fatawa*,¹⁵ or formal opinions on Islamic law, in forming policy. The President, in a speech to the National Congress of MUI on 26 July 2005, stated: "We want to place MUI to play a central role with regards to Islamic doctrine . . . and for matters where the government or the state should listen to the fatwa from MUI and the ulamas" (Yudhoyono, 2005). This speech was delivered just short of a year after Yudhoyono's inauguration as President for his first term on 20 October 2004, and can be considered his general policy on the position of Islam and MUI. The provision of this degree of public legitimacy for the claim and enforcement of this single version of truth has encouraged aggression and violent acts by intolerant groups.

All religious groups, including MUI, have the right to claim that their interpretation is the only true one, and to tell their congregations that other religions or beliefs are deviant. This has been the case for as long as religions and humans have existed but it should only apply within the group, and not be something that is enforced or endorsed by the government and the state legal apparatus. It should not be given legitimacy by the government through the establishment of an institution, official regulations and the grant of impunity by law enforcers for threats against, and persecution of, those outside the group.

Coincidentally or not, during its National Congress of 2005, MUI issued a number of fatwa that ended up triggering controversy, as they reflected a claim to a single interpretation of the true Islam by MUI and encouraged acts of violence by intolerant groups.

These *fatawa* asserted: first, the heretical nature of Ahmadiyah; and, second, that pluralism, secularism and liberalism were unlawful (*haram*) according to Islam (Suaedy, 2006). They triggered increasing persecution of Ahmadis, and a number of other sects considered deviant by MUI,¹⁶ and were followed by various government and local government regulations on the limitation and official banning of minority sects or beliefs (Suaedy *et al.* 2010) At its next Congress, MUI even issued a *fatwa* setting out ten criteria for heretical sects that later encouraged a number of regional chapters of MUI to identify such sects in their area and report them to the regional government, requesting official banning after issuing a *fatwa* identifying them as heretical (Suaedy, 2011: 149; see also Hasyim, this volume).

During the New Order era, MUI called itself ‘the servant of the government’, and the views and *fatawa* it issued were usually in line with government policies. This alignment with government policy began under Soeharto’s authoritarian rule and continued during B. J. Habibie’s administration, when MUI was involved in mobilization of political support for his rule (Ichwan, 2005: 56-62). During the administration of Abdurrahman Wahid, MUI tended to put itself in opposition, as President Wahid explicitly stated in public that he wanted MUI to be weaned from its financial dependence on the Ministry of Religious Affairs and become an independent mass organization, like other religious organizations and NGOs. Wahid agreed to provide an endowment for MUI to separate from the Ministry of Religious Affairs but this had not been realized by the end of his term (Ichwan, 2005: 62-3). MUI responded to Wahid with strong, open resistance, including issuing *fatawa* that contradicted government policy. From this point, MUI began to oppose the government, despite the fact that it was MUI’s key source of funding.

Debate and tension between Wahid and MUI encouraged it to claim to be moving ‘from serving the government to serving religious adherents’, in this case the Islamic community exclusively (Ichwan, 2005: 61-71). Yudhoyono’s speech at the beginning of

his term saw the government abandon Wahid's position, to instead provide legitimacy for MUI's claim to represent a single version of truth on Islamic doctrine and teachings.¹⁷ More specifically, the government gave MUI legitimacy to determine who deviates from the truth as it defines it. Ichwan has argued that the MPU (Majelis Permusyawaratan Ulama, Ulama Deliberative Assembly), the Aceh chapter of MUI, which has strong legitimacy thanks to Law No. 18 of 2001 on the Special Autonomy of Aceh, became a place of gathering for conservative *ulamas* and this automatically marginalized moderate *ulamas*. This seems to have also happened within MUI at the national level under Yudhoyono's administration (Ichwan, 2011: 184-5).

Following the issue of MUI's 2005 *fatawa*, persecution after persecution took place of Ahmadis as well as minorities targeted by *fatwa* issued by central and regional MUI branches.¹⁸ In addition, the government issued regulations that reinforced these *fatawa*. The Joint Ministerial Decree on the status of Ahmadiyah that was issued following the bloody incident at the National Monument on 1 June 2008 was a response to the demands of the intolerant groups, and constituted direct support for MUI's *fatwa* on Ahmadiyah's heresy (Suaedy, 2011: 139-43). It was followed by the issuance of at least 25 regulations by regional governments banning sects and beliefs considered heretical by MUI, including its regional chapters, on the basis that Ahmadi beliefs were inherently a form of vilification of Islam.¹⁹ A range of government agencies were involved, such as the Research and Development Agency of the Ministry of Religious Affairs; Heads of Regions and Bakorpakem (Badan Koordinasi Pengawasan Aliran Kepercayaan Masyarakat, Coordinating Body for Monitoring Mystical Beliefs in Society) of the Chief Prosecutor's Office; the Police; and, of course, MUI. This demonstrates the active and deep involvement of government elements in the persecutions (Suaedy, 2011: 148-56).

The consequences of government involvement and endorsement in these actions against religious minorities have

been significant in recent years. The *amir*, or leader, of Ahmadiyah Indonesia, Abdul Basit, has, for example, stated in front of the Indonesian legislature that before 2005, there was no persecution of Ahmadiyah, let alone mosque burnings, despite the issuance of a *fatwa* against Ahmadiyah by MUI in 1980 (Kristanti & Susila, 2011). After 2005, provocation and threats became common. This is true also for other minority Muslim organizations, such as JIL (Jaringan Islam Liberal, the Liberal Islamic Network), a group of progressive Muslim intellectuals.²⁰ JIL's office even received a bomb package, which later exploded (*Kompas*, 2011). Similarly, according to the reports by the KWI (Konferensi Waligereja Indonesia, Indonesian Bishops' Conference) and PGI (Persekutuan Gereja-gereja Indonesia, the Indonesian Communion of Churches) to the National Human Rights Commission,²¹ there have been increasing forced closures of, and attacks against, churches as well.²²

Sudi Silalahi

Another indicator of growing intolerance was the appointment as President Yudhoyono's closest aides of politicians who had very conservative views on religion. Sudi Silalahi was one of Yudhoyono's closest allies since before he became President. Sudi, a three-star lieutenant general, was appointed as Cabinet Secretary when Yudhoyono first formed his administration in 2004, and became State Secretary in his second term from 2009 to 2014. Sudi is known to have a very conservative view of Islam in the political sense and to be close to intolerant groups. During the period of violence in Ambon between 1999 and 2001, for example, Sudi was the Regional Commander of Surabaya-based Brawijaya Military Command, and let Laskar Jihad²³ radicals from Surabaya fight in Ambon, even though President Wahid had ordered a halt to such activity (Aditjondro, 2000).

The closeness of high-ranked officials to conservative groups has led government officials to be reluctant to prevent incidents of conflict. For instance, the MTA (Majelis Tafsir Al-Qurani,

Quran Interpretation Council), which is close to Sudi Silalahi and supported Yudhoyono during the 2004 and 2009 elections, enjoyed rapid development in Central Java and the western part of East Java. MTA was established by Abdullah Tufail, who belongs to the generation of Abu Bakar Ba'asyir and Abdullah Sungkar and once worked closely with them (Solahudin, 2011: 139-56).²⁴ This group has views that are very close to Wahhabism and has often been involved in conflict with local community groups as its members accuse other groups of being deviant. Despite this, in March 2009, President Yudhoyono officially opened the MTA building, which cost Rp. 13 billion (MTA, 2009). Under the protection of these high-level officials, MTA often provokes the local community through hate speech and claims that its opponents are infidels (*kaafir*) (Jinan, 2011: 581-602). Local security officials frequently do not want to act against offenders linked to groups such as MTA because they believe they have close contacts with high-level officials. In their sermons and lectures, MTA always emphasizes the purification of Islamic teachings, along with denunciation and expression of hatred towards local traditions, including the religious practices of NU (Nandlatul Ulama, literally 'Awakening of Ulama'), the world's largest Islamic organization, and seeks to label even such mainstream groups as heretical (Media AULA, 2011).

Ma'ruf Amin

K. H. Ma'ruf Amin was appointed a member of the Presidential Advisory Council (Dewan Pertimbangan Presiden or Wantimpres) by President Yudhoyono. He was also the only person in that body appointed to deal with inter-religious relations, when it was established for the first time for the period 2007-2009. He was reappointed for Yudhoyono's second term and his closeness to Yudhoyono was also associated with MUI's support for Yudhoyono's presidency from 2004 onwards.

Ma'ruf Amin was also the person most responsible for MUI issuing *fatawa* on Ahmadiyah being a heretical sect and the

unlawfulness of pluralism, secularism and liberalism in 2005, as he was then MUI's Chairman of the Fatwa Commission (and is now its Executive Chairman). It is only recently that MUI's decisions related to heretical sects have come to include a call for avoidance of violence, after the group received sharp criticism from many parties. In earlier *fatawa*, all public statements by MUI on heretical sects were, in fact, accompanied by the statement that MUI was not responsible if something unwanted happened if the government did not take immediate action to ban the activities of the heretical sects or disband them. It is significant that Ma'ruf Amin was also spokesperson for public communications and official statements of MUI for the two MUI *fatawa* and urged the government to officially ban Ahmadiyah (Suaedy, 2011: 146-7).

In addition to his position on the Presidential Advisory Council, Ma'ruf Amin has a strong influence within MUI, not least because he was the Chair of the National Syariah Council (Dewan Syariah Nasional), an institution playing a decisive role in the organizational structure of Indonesian *sharia* banks, currently controlled by MUI (Ichwan, 2005). Ma'ruf Amin is also a senior *ulama* in NU, and is known for always trying to make NU follow and support MUI's opinions without reservation, although rarely with success. Whenever his opinion has been put to meetings of NU's senior *ulamas*, it has always been rejected.²⁵

Gamawan Fauzi

Gamawan Fauzi was the Minister for Internal Affairs in President Yudhoyono's second administration (2009-2014). Formerly the Head of Solok District of West Sumatra for two terms, Gamawan was later elected as Governor of that province. In the field of governance, Gamawan has a good record, receiving the Bung Hatta Award in 2004 for being a regional head free of corruption and establishing an anti-corruption system. On the other hand, he was also one of the first officials to introduce religion-related regional regulations, also known as 'syariah regional regulations' (Peraturan

Daerah Syariah, Perda Syariah), in Solok, requiring school students and prospective brides and grooms to be able to read the Quran (Rahmat, 2011).

Recently, Gamawan introduced to the DPR a plan to draft a Decision Letter of the Ministry of Internal Affairs on the need for a new Indonesian version of the definition of human rights in the field of religious freedom. It was proposed, claimed Gamawan, so that human rights do not violate Indonesian religious and cultural values.²⁶ This seems to have been an answer to responses to the Indonesian report to the UNHRC (United Nations Human Rights Council) in the UPR (Universal Periodic Review) on the situation of religious life and freedom in Indonesia. The report received much criticism, particularly from developed countries, for violations of religious freedom and the inability to provide protection from violence for minorities (UPR, 2012). Gamawan also enacted Regulation of the Minister of Internal Affairs (Permendagri) No. 33 of 2012 on the registration of mass organizations for regional governments, arguing that this regulation sought to regulate mass organizations that often commit violence and ‘anarchic practices’. When reviewed more carefully, however, the regulation, in fact, supports such mass organizations. Items (m) and (n) of art. 25 on suspension of registration of a mass organization, for instance, provide that the regional government can ban a mass organization on grounds that include not just violence and anarchism or reception of foreign assistance without government approval, but also if it:

(m). advocates the spread of teachings, ideologies and faith that cause unrest in society, as well as *blasphemy against certain ethnicities, religions, races and groups*; (n). advocates the spread of Marxism, atheism, capitalism, socialism and other ideologies that are in contradiction to Pancasila and Constitution 1945 ... [emphasis added]

Minister of Religious Affairs

The Ministry of Religious Affairs was led by conservative and intolerant figures for the two terms of President Yudhoyono's rule: Maftuh Basyuni²⁷ and Suryadharma Ali.²⁸ Maftuh once issued a Letter of Decision prohibiting his Ministry from financing overseas scholarships for religious studies or Islamic studies by reason of a fear of students becoming 'liberal'. Suryadharma Ali has likewise often made sectarian statements against Islamic minorities such as the Ahmadiyah (Prabowo, 2011) and Shi'a communities,²⁹ whom he considers to have left Islam, although he has since rectified his statement on the Shi'a (JPNN, 2012).

Yudhoyono's choices for Minister of Religious Affairs differ greatly from the three previous Ministers under the administrations of President Habibie, President Wahid and President Megawati Soekarnoputri, who almost never adopted the sort of attitudes to heretical sects and the anti-liberal perspectives that have been espoused by MUI since 2005.

Differences of Principle between the Inter-Religious Harmony Bill and the Protection of Freedom of Religion and Belief Proposal

Indonesia has never had a comprehensive Bill on the Protection of Freedom of Religion or Belief. What exists is only an academic paper on the protection of religious freedom and some scattered ideas. There are at least two versions of academic papers from the progressive group, the contents of which are more or less similar. The first is a paper prepared by a number of NGOs and activists concerned by threats to religious freedom and human rights, while the other was prepared by the PDI-P (Partai Demokrasi Indonesia - Perjuangan, Indonesian Democratic Party - Struggle) faction of the DPR. This seems to still be under development and has not been officially adopted by the party. The two documents, despite their different language and structure, have very similar content.

By contrast, the original version of the Inter-Religious Harmony Bill was a document prepared by the Research and Development Agency of the Ministry of Religious Affairs in 2003, without a supporting academic paper. The draft bill was registered in the DPR legislation program (Prolegnas, Program Legislatif Nasional, the list of bills scheduled to be deliberated by the DPR) during the period 2005-2007, and became the subject of heated and critical discussion among NGOs. As it had ignited strong resistance from civil society groups, the draft was withdrawn and was, in fact, never debated in the DPR. According to one of the drafters, Ahmad Syafii Mufid, a senior staff member in the Research and Development Agency of the Ministry of Regional Affairs, the document was a simple compilation of the contents of various regulations and laws on religious life, including the Blasphemy Law and subsequent laws.

With the recent tendency towards growing intolerance, the DPR, in this case Commission VIII (which is in charge of religious and social issues), took the initiative to prepare a draft with a similar title, along with an academic paper in 2011. Reviewing the content of the academic paper, several changes from the 2003 version are apparent. For instance, 'sects' or 'streams of belief' are given an equal position to the other religions and faiths. According to the academic paper, both sects and religions need to be regulated by the government through law. By contrast, the draft bill of 2003 treated sects as not being within its scope, as it was considered they should remain where they are now, under the authority of the Ministry of Culture and Tourism.³⁰

The second issue is criticism of MUI's *fatwa* on Ahmadiyah. The academic paper argues that it is understandable that MUI or other religious groups might issue a *fatwa* or any other sort of statement to the effect that their groups are correct and others are heretical. This, however, should never be reinforced by the government. This was not addressed in the 2003 draft bill of the KUB as there was no academic paper and MUI's *fatwa* was only issued later, in 2005.

That being said, the articles contained in the Bill compiled by the DPR are almost identical to the draft bill of 2003. This means there is therefore a gap between the content of the academic paper prepared to support it and the actual content of the 2011 draft bill. The only differences between the texts of the two bills are, in fact, small differences of detail, for instance in the method of proselytization through education, which is regulated in more detail in the 2011 draft. According to a member of the drafting team for the 2011 Bill, A. Muchaddarn Fahham of Commission VIII of the DPR, the similarity between the two draft bills was not a result of copying and pasting from the 2003 version of the bill but due to the similar sources used, namely various regulations and laws on religious life. The academic paper, however, was a transcript of the input from key figures involved in the process, some of whom come from the progressive group. The closest (and most concerning) similarities between the two draft bills are: (1) the inclusion of two paragraphs of art. 156A of the Criminal Code, which provide that the only legitimate target for proselytization or missionary activity are individuals or communities who do not belong to one of the six state-recognized religions; (2) the prohibition of proselytization by providing material compensation; (3) the fact that the focus of the Bill is specifically the six official religions and it excludes other beliefs; and (4) the prohibition against accepting donations for religious purposes from overseas sources without informing the government. It is to be noted, however, that the DPR-initiated draft bill is yet to become an official proposal from the House and, indeed, is not even an official proposal from Commission VIII at this stage.

An important principle of the academic paper originating from the progressive group is, among other things, the view that a Bill should not regulate religions but that citizens' rights as religious adherents should be respected and protected. It has taken the position that it is an obligation of each citizen to respect other citizens' rights to profess a religion or belief. Therefore, the progressive group does

not differentiate between the adherents of religions and those of faiths, including religions not officially recognized in the Blasphemy Law, or between beliefs and atheistic beliefs.³¹ It also upholds the right to change religion. This was based on the ICCPR, art. 18 of Law No. 12 of 2005, art. 28E of the 1945 Constitution, and art. 22 of Law 1999 on Human Rights. Furthermore, the group holds the opinion that the government does not have the right to interfere in an individual's convictions, which are considered a non-derogable right. Any restriction of these rights, in addition to having to be stipulated in a law, must conform with international human rights standards. Religious expression may, or even should, be regulated but it cannot be discriminatory, such as restricting proselytization only to target those without religious convictions. It is also discriminatory to differentiate between recognized and unrecognized religions in spite of a law regulating this, or to impose a different status on those who 'embrace' (*memeluk*) a religion as opposed to those who have a lesser commitment because they merely 'follow' (*mengikut*) it. The government needs to provide for those with different religions and beliefs, including atheism, without discrimination. All citizens need to be protected as a fundamental right and not based on the nature of their spiritual beliefs.

A number of laws and regulations that were claimed to be sources of the 2003 and 2011 draft bills require explanation here, especially as regards at least four controversial issues dealt with in these regulations. The first is religious desecration, regulated by the Blasphemy Law. As mentioned, this Law inserted art. 156A into the Criminal Code, imposing a prohibition on interpreting and practicing a religion that is in disagreement with a mainstream religion recognized under that Law. Those proven to commit such acts face up to five years' incarceration. The second issue relates to the rules for proselytization or religious missionary activity. The Joint Ministerial Decree of the Minister of Religious Affairs and the Minister of Internal Affairs No. 1 of 1979 (and related subordinate regulations) prohibits proselytizing to people who

belong to a 'religion' (here understood to not include 'beliefs', which may be the subject of proselytizing); prohibits the offering of gifts to invite someone to embrace a religion; and prohibits the receipt of religiously-related assistance from abroad without informing the government. The third issue concerns places of worship. The government issued Joint Ministerial Decree of the Minister of Religious Affairs and the Minister of Internal Affairs No. 1/Ber/MDN-MAG/1969 on 13 September 1969. It is provided in this Decree that the construction of a place of worship in certain areas requires a permit from the head of the region or an official subordinate to the head who has been granted the authority to do so. The fourth issue concerns inter-religious marriage, which is stipulated in Law No. 1 of 1974. In essence, the law prohibits inter-religious marriage. The current law relating to all four issues has been retained in both the 2003 and 2011 draft bills (Rumadi *et al.* 2012: 11-69, 71-111).

The rules and articles in laws pertaining to religion enacted after the reform thus contain contradictory provisions. On the one hand, there are rules that substantially provide protection for wider and deeper religious freedom. On the other hand, there are articles in certain laws or regulations that constitute restrictions and contradict the amended Constitution. The articles that provide larger and deeper protection include, among others, art. 28E of the amended Constitution. Paragraph 1 of that article guarantees that everyone is free to choose and to practice the religion of his/her choice, and to choose one's education, while para. 2 of the article provides for the freedom of every person to believe in his/her chosen faith, and to express his/her views and thoughts in accordance with his/her conscience:

1. Everyone is free to choose and to practice the religion of his/her choice, to choose one's education, to choose one's employment, to choose one's citizenship, and to choose one's place of residence within the state territory, to leave it and to subsequently return to it.

2. Everyone has the right to the freedom to believe his/her faith (*kepercayaan*), and to express his/her views and thoughts, in accordance with his/her conscience.

A similar stance is affirmed in art. 22 of Law No. 39 of 1999 on Human Rights:

1. Everyone has the right to freedom to choose his/her religion and to worship according to the teachings of his/her religion and beliefs.
2. The state guarantees everyone the freedom to choose and practice his/her religion and to worship according to his religion and beliefs.

Laws on the ratification of several human rights instruments also strengthen protection for religious freedoms. These include Law No. 29 of 1999 on the Ratification of Convention on the Abolition of Racial Discrimination and Law No. 12 of 2005 on the Ratification of the ICCPR.

On the other hand, however, the post-reform era also resulted in laws and regulations that tend to restrict freedom of religion, including art. 64(2) of Law No. 23 of 2006 on Civil Administration, which allows the government to categorize religions as those that are recognized and those that are not for the purposes of the stipulation of religion on the Indonesian KTP (Kartu Tanda Penduduk, Identity Card). It provides that:

The description of religion [on the KTP] as provided by paragraph (I) for the inhabitant **whose religion is not yet recognized as religion based on the provision in the laws and regulation or for the adherent of belief is left vacant**. but the person is provided with services and the information is recorded in the population database. [emphasis added]

This represents progress compared to the situation under

the New Order, which did not recognize any religions other than the official five (the current six religions, less Confucianism) and traditional beliefs. Citizens used to have to be affiliated with one of the five to be able to access government services, although, in practice, discrimination against them continues (Purnama, 2012). Meanwhile, if a person does have a recognized religion, it must appear in the space provided on the KTP. Thus, religions not explicitly mentioned in the Blasphemy Law, as well as the lesser category of 'beliefs', are routinely discriminated against.

There is also Joint Ministerial Decree No. 3 of 2008 on Warning and Order to the Believers, Members and/or Board Members of the Indonesian Ahmadiyah Community (JAI) and Community Members. The essence of this decision is the prohibition on the public sharing and proselytizing of Ahmadiyah teachings and an order to terminate Ahmadi activities for so long as the group claims to be part of Islam, as Ahmadi interpretations and practices are considered deviant from mainstream Islam.

After 1998, there were also regulations introduced that were relatively neutral in trying to bring harmony or mediate between different religions, for instance the Joint Ministerial Decree of three ministers on Guidelines of Implementation of Tasks of Heads / Deputy Heads of Regions in the Maintenance of Inter-Religious Harmony, Empowerment of Forums for Inter-Religious Harmony and Establishment of Places of Worship. This regulation provides that the heads of regions are in charge of inter-religious harmony in their jurisdiction. This Decision also deals with the FKUB (Forum Kerukunan Umat Beragama, Inter-Religious Harmony Forum), the tasks of which are, among other things, to conduct dialogue to improve inter-religious harmony and provide recommendations for the establishment of places of worship. Requirements for the establishment of places of worship are also provided, and, in fact, this Joint Decree was actually an amendment of Joint Ministerial Decision No. 1/Ber/MDN-MAG/1969 dated 13 September 1969 on the Establishment of Places of Worship.

Theoretically, the legal basis for the protection of religious freedom is actually stronger now than in the Inter-Religious Harmony Bill, as it is explicitly guaranteed in the Constitution (as amended) and ratified in international human rights instruments and laws. In practice, however, laws made prior to the constitutional amendments of 1999-2002, and various related joint ministerial decisions, are the ones used more frequently for prosecution, despite the fact that their legal position formally ranks below, and may be overruled by, the Constitution and international law. The dominant orientation of law enforcers is to the Blasphemy Law, which was enacted prior to the constitutional amendments, and the Joint Ministerial Decisions. In these circumstances, the drafting of the Inter-Religious Harmony Bill simply constitutes an attempt at hegemony from the status quo group.

Conclusion

Although intolerance and violence continues to rise in Indonesia, there has yet to be a serious response from either the government or the DPR. A law on inter-religious harmony and protection for freedom of religion to regulate the state-citizen relations on religious matters has not yet been passed in Indonesia. Instead, the implementation of laws and regulations tends to be based on those existing prior to the amendment of the Constitution that took place after President Soeharto's time in office. As a result, discrimination towards minorities in reality continues to rise. The Blasphemy Law was reinforced after the court rejected the petition for its abolition brought by progressive Muslim figures and a number of NGOs. It thus remains the key reference for other regulations, not to mention government and legal practices, even though it contradicts the amended Constitution. This was exacerbated by the Yudhoyono government's practice of giving legitimacy to the claims of a single truth in MUI's interpretation of Islam, thus encouraging increased intolerance, violence and the banning of sects considered heretical by MUI.

Second, it is apparent that the progressive group is substantially closer to the implementation of international human rights laws than the status quo group. In practice, however, the status quo perspective is hegemonic. In terms of policies and legal enforcement concerning protection of minorities and victims, the government tends to be controlled by intolerant groups. This increasingly affects the fate of minorities, both because they continue to receive threats and be the subject of violence, and because they continue to be persecuted in the courts, where they are usually treated unfairly. Meanwhile, their attackers - who claim to represent the majority and have received legitimacy from MUI *fatawa*, which are, in turn, supported by the government and, during his time in office, President Yudhoyono - have enjoyed increasing immunity in court.

Third, in reference to development and the demands of democratization and globalization, a fundamental and radical change is needed not only in formulation of law but also in management of the nation. This should refer to recent developments in the position of minorities in light of the fact that Indonesia remains a very plural, diverse and multicultural nation.

If the governments that succeed the Yudhoyono government ever come to consider how they might better guarantee Indonesia's plurality and multiculturalism, they will need to reconsider Yudhoyono's policy of giving sole legitimacy to MUI's interpretation of Islam. A number of laws have now been passed that mean MUI's monopoly on truth extends further than the Muslim faith, to areas of economics, including implementation of the *zakat* (Islamic alms) Law, *halal* certification, and *sharia* banking. These should be reviewed.

Finally, the Blasphemy Law, which is the chief basis on which minorities are oppressed and which contradicts the 1945 Constitution and human rights laws, must be annulled. Law enforcers and the government must act against those perpetrating discrimination, hate speech and violence against minorities, with appropriate sanctions.

Sadly, President Yudhoyono's government repeatedly failed to do any of these things and there has been no concrete action to date by his successor, President Joko Widodo.

Appendix

Table

Indicators of difference between integralistic perspective and liberal perspective groups

No.	Item	Integralistic Perspective Group (KPI)/ RUU KUB	Liberal Perspective Group Notes (KPL)/ NA KBB	Notes
1	Title	Title The Inter-Religious H a r m o n y (KUB)	Academic Paper for the Bill of Protection for Freedom of Religion/ Faith (JBB)	KPL has not developed a draft bill and has only provided an academic paper.
2	Object	Religions	Religions and faiths/seets/ streams of belief (including the belief in the absence of God/ atheism) and the right to convert	KPI does not include faiths/ beliefs in the draft bill as they are considered to be in the domain of the Ministry of Tourism and Culture in accordance with the existing Law. ³²
3	Scope	The law only addresses the six major religions	All religions and faiths should become objects of this law; religions and faiths become individual rights	In the KPI draft, small religions other than the six are left to exist but are not provided with facilities.

4	Mission	Religious proselytisation can only target those who have not yet embraced a 'religion'	It is not clearly formulated yet, but in principle the bill has to serve people who embrace religions as well as schools of faith indiscriminately (making people who have not embraced a religion/school of faith as the object of religious propagation/missionary activities is a discriminatory act)	What is meant by those who have not embraced a religion are those who embrace schools of faith other than the religions mentioned in Law No. 1/ PNPS/1965.
5	Rule of government	The government can interfere in faith (it is not an intervention in faith, but an attempt to save minorities that are heretical).	The government can only regulate expression but not faith (forum externum).	There is a debate on the interpretation of art. 283 of the 1945 Constitution regarding faith (non-derogable rights, forum internum).
6	Limitation for forum internum	Allowed pursuant to art. 28J of Constitution 1945 (exception) and Law No. 1 PNPS 1965 as it is not forum internum but a matter of expression/forum externum instead.	Limitations on forum internum may be enforced but only on the basis of arguments justified by the principles of human rights laws. The argument for limitation in Law No. 1/ PNPS 1965 does not satisfy this criteria.	

7	Unorthodox religious interpretation as criminal offences	Religious interpretations considered to deviate from the mainstream are considered to violate criminal law on belief and as such can be prosecuted.	Religious interpretation is a part of faith and as such cannot be prosecuted. That is, religious interpretation cannot be a criminal offence.	Clauses on religious blasphemy as a criminal offence are regulated in PNPS No. 1 1965 and the KUB draft bill proposed by KPI.
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Endnotes

1. See, for instance, Rogers (2012), *The Economist* (2012), Vaswani (2012). ABC Australia Network (c.2012) and UPR (2012).
2. See Prakoso (2012), Wahid Institute (2012) and Setara Institute (2013).
3. I take the term 'integralistic' from Marsillam Simanjuntak's book (Simanjuntak 1994: 85--129), where he discusses a speech of Soepomo, who first introduced the concept of 'integralist state'. In Soepomo's view, Marsillam argues, an integralist, or integralistic, state is between a liberal or individualistic state and a Marxist or class-based state. It is, however, a state with a totalitarian character or a state that is organic in nature. This view is identified as close to Hegel from a philosophical point of view and to Hitler in practice (Dhakidae 2003: 242-3; see also Bourchier 1997: 157-85).
4. See Decision of the Constitutional Court No. 140/PUU-V1112009.
5. There are many cases to be cited on this matter, and most were discussed in the Constitutional Court's decision in the *Blasphemy Law case*. See also Suaedy *et al.* (2010: 103-217). For various cases following the upholding of Law No.1/PNPS/ of 1965 (the Blasphemy Law) by the Constitutional Court, see Rumadi *et al.* (2012, especially 11-69, Chapter 2). See also Butt (this volume).
6. Rumadi (2007) concludes that the level of punishment imposed in blasphemy cases tends to depend on the level of public pressure during the trial process. See also Suaedy *et al.* 2010, particularly 104-18).

7. The case occurred after the Constitutional Court upheld the Blasphemy Law. See, for instance, Komnas HAM (2011) (also complete draft report by LBH *et al.* 2012).
8. For cases prior to the Constitutional Court decision, see Suaedy *et al.* (2010: 103-217).
9. They included (the late) KH Abdurrahman Wahid, former President of Indonesia and former head of NU (Nandlatul Ulama or Awakening of the Ulama, Indonesia's largest Islamic organization); Siti Musdah Mulia; Dawam Rahardjo; Maman Imanul Haq; and seven civil society organizations, namely: YLBHI (Yayasan Lembaga Bantuan Hukum Indonesia, Indonesian Legal Aid Institute); Imparsial; Setara Institute; Demos; Elsam (Lembaga Studi dan Advokasi Masyarakat, Institute for Policy Research and Advocacy); Desantara; and PBHI (Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesia, Indonesian Legal Aid Center).
10. Joint Decree of the Minister of Religious Affairs, the Attorney General and the Minister for Internal Affairs No. 3 of 2008, No. KEP033/A/JA/6/2008 and No.199 of 2008.
11. Article 19 of the Attachment (which is the Indonesian translation of the ICCPR) to Law No. 12 of 2005 on the ICCPR provides that: 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice; 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights and reputation of others; (b) For the protection of national security or of public order or of public health or morals'. It must be admitted that the criteria for, and definitions of, the limiting of international human rights are multi-interpretable (see, for instance, Nowak and Vospernik 2004: 147-72).
12. The proposal for a 'middle way' is generally considered by critics of the Constitutional Court to be disingenuous, as the Constitutional Court, in reality, took the side of the status quo or integralistic group (see Margiyono *et al.* 2010: 71-105).
13. For further discussion of this judgment, see Lindsey and Butt (this volume), Butt (this volume) and Fenwick (this volume).

14. Jassin did not write this story but published it. The unknown author used the pseudonym of Ki Panji Kusmin.
15. *Fatwa* (Ar., plural *fatawa*) is a legal opinion on a question of Islamic law by a qualified scholar.
16. For the attacks, violence and forms of persecution following the ruling by the Constitutional Court, see Rumadi *et al.* (2012: 11-69) and ICG (2008). See also Suaedy *et al.* (2010), which deals with cases before the ruling.
17. See Ichwan (2005).
18. According to records held at the headquarters of JAI (Jamaah Ahmadiyah Indonesia, Indonesia Ahmadiyah Community), there were 29 attacks against Ahmadis from 2005 to 2007, while from 2008 to 2011, after the issuance of the Joint Letter of Decision of the Three Ministers on Ahmadiyah, there were 42 (data from the headquarters of JAI, on file with author).
19. These regulations took various forms, such as Gubernatorial/Mayor/Regent Decrees, or local regulations banning certain sects, the majority of which pertain to Ahmadiyah, and were issued by Kuningan District, Bogor City, Bogor District, Bekasi City, Cimahi City, all in West Java, and the West Java Provincial Government; the Lombok Barat District and the Governor of West Nusa Tenggara/Lombok; the East Java Provincial Government; Lebak District and Pandeglang District, both in Banten Province, and the Banten Provincial Government; the South Sumatra Provincial Government; Pekanbaru City in Riau Province; Padang City in West Sumatra Province; the Kampar District in South Sulawesi; and the South Sulawesi Provincial Government; and the Samarinda District in East Kalimantan. These regulations are largely based on the Blasphemy Law, the Three Ministers Joint Decree and MUI fatwa. These regulations have never been reviewed by the central government (see Crouch 2012: 556-7; for other streams of belief, see Budiwanti 2009: 20-1; Suaedy *et al.* 2010: 103-217).
20. See <http://groups.yahoo.com/group/syiar-islam/message/2754>.
21. In 2008, KWI and PGI reported that increasing closures and destruction of churches in Indonesia during the four years from 2004 to 2007 reached 108 cases (Merdeka 2007).
22. PGI has recorded the number of churches that have been interfered with, threatened, attacked or closed, as follows: 2008 - 14 cases; 2009 - 10 cases; 2010 - 27 cases; 2011 - 54 cases; and 2012 - 59 cases. These data were obtained from the office of the Deaconate of PGI, on file with the author.

23. A militant Islamist group, formed in early 1998.
24. According to Solahudin (2011: 139-56), the three together founded Jemaah Islamiyah, the Indonesian Islamist terrorist organization.
25. Under the two periods when it was led by KH Hasyim Muzadi, KH Ma'ruf Amin was a relatively senior member of the Advisory Council of PBNU (Pengurus Besar Nandlatul Ulama, the Central Board of NU). Under the leadership of K. H. Said Aqil Siroj, Ma'aruf Amin is no longer a PBNU board member, but only a senior advisor. He thus no longer enjoys a strategic position in decision-making.
26. Gamawan said, 'We must regulate the definition of human rights so that the implementation will not violate religious and cultural values embraced in certain parts of the country, which have their own traits' (Aritonang 2012).
27. Maftuh Basyuni is an alumnus of Saudi Arabia and was an official in the Indonesian Embassy in Saudi Arabia for a relatively long period.
28. Suryadharma Ali is an alumnus of the Islamic Education (Tarbiyah) Faculty of the State Institute of Islamic Studies (now, State Islamic University), Syarif Hidayatullah, Jakarta, and later became a director of a retail company before becoming a prominent figure in the Islamic party, PPP (Partai Persatuan Pembangunan, United Development Party), of which he eventually became President.
29. See Natalova (2012). Suryadharma Ali quoted MMI (Majelis Mujahidin Indonesia, Indonesian Jihad Fighters' Council), saying, 'Based on that, the Indonesian Majaheedin Council states that the Shi'a are not part of Islam. Whoever believes that the Shi'a are not heretical are themselves heretics'.
30. See Joint Regulations of the Minister of Internal Affairs and Minister of Culture and Tourism No. No. 43 of 2009 and No. 41 of 2009 on 'Guidelines of Service for the Adherents of Belief toward Almighty God'.
31. On atheism in Indonesia, see Hasani (this volume).
32. See Joint Regulations of the Minister of Home Affairs and Minister of Culture and Tourism No. No. 43 Year 2009 and No. 41 Year 2009 on 'Guidelines of Service for the Adherents of Belief in God Almighty'.

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CHAPTER IX

RELIGIOUS FREEDOM AND VIOLENCE IN INDONESIA

Introduction

On 1 June 2008, violence among radical Islamic groups or hardliners peaked in what would become known as the 'Bloody Monas Tragedy'. On this day a thousand or so members of the loose AKKBB alliance (Aliansi Kebangsaan Untuk Kebebasan Beragama dan Berkeyakinan, National Alliance for Freedom of Religion and Belief), which consists of more than sixty-five organizations, including Muslim organizations and non-government organizations (NGOs), were attacked by some five hundred members of the KLI (Komando Laskar Islam, Islamic Force Command), a subgroup within the FPI (Front Pembela Islam, Defenders' Front of Islam), but that was led by the well-known HTI (Hizbut Tahrir Indonesia) activist, Munarman.¹ More than 90 were injured, 14 critically. Those severely injured required several days in the hospital (*Tempo*, 9-15 June 2008: 20-37).

AKKBB members were holding a rally in commemoration of the creation of Pancasila at the national monument in Central Jakarta known as Monas, a place deliberately chosen for its importance in Indonesia's history as a nation. Pancasila² is the fundamental basis of the Indonesian state that protects all religions and ethnic identities, and acts to unify the nation. It is also the philosophical basis for the Indonesian Constitution, law and state management. The rally, which was also attended by women and children and was to head to Hotel Indonesia fountain, was also intended to remind the public again of the pluralistic foundations of Pancasila and of the national slogan '*bhinneka tunggal ika*' (unity in diversity). The rally was a response to the eroding condition of religious freedom and the rash in violence in Indonesia springing from religious difference (*Tempo*, 9-15 June 2008: 28-38).³

FPI and HTI set upon the rally because they felt that among those in the commemoration were members of the Ahmadiyah – or, at the very least, the event was held in defense of Ahmadiyah, an Islamic sect pronounced deviant by the MUI (Majelis Ulama Indonesia, Indonesian Council of Ulama) (Hasbiyallah and Syarifuddin 2008).⁴ As a result, FPI and its allies argued that Ahmadiyah members could be attacked, or even killed.⁵ Prior to the 1 June tragedy, several cases of violence had arisen, including inter- and intra-religious threats, intimidations, and attacks against minority groups. Perpetrators had included known organizations such as the FUUI (Forum Ulama Ummat Islam, Indonesia Forum of Ulama and the Muslim Community),⁶ the FUI (Forum Ummat Islam, Forum of the Muslim Community), FPI, and HTI. Other groups had also formed spontaneously to attack specific religious groups or sects.⁷

Police had failed to respond sufficiently to these incidents; in fact, it was often the case that victims of such attacks were taken to the police station and then charged for religious defamation and blasphemy.⁸ A number of religious leaders from various Islamic sects considered deviant have been sent to jail on accusations of religious defamation (Fahayu, 2005). On 9 June, eight days after the ‘Bloody Monas Tragedy’, the three ministers’ (Minister for Religious Affairs, Minister for Internal Affairs, and the Attorney General) joint decree was issued, threatening Ahmadiyah to stop all proselytizing activities or risk being disbanded (*Tempo*, 16-22 June 2008: 16-42; *MRORI-WI* 11, June 2008).⁹ The joint decree was issued when around 5,000 Muslims surrounded the Presidential Palace, the president’s office, to demand that Ahmadiyah be disbanded (*Detik News*, 9 June 2008; *Tempo*, 16-22 June 2008: 26-29).

This paper assesses contemporary challenges to democratization in Indonesia. It looks specifically at the decline in religious freedom and the strengthening of collective violence triggered by inter and intra-religious differences. While post-reformation amendments to the Indonesian Constitution have given more emphasis to freedom

of religion and belief, in practice the government has largely been unable to protect so-called deviant groups from intimidation and, often, physical attack by radical and dominant groups. In this paper, I wish to demonstrate how the lack of guaranteed religious freedom and the religiously motivated inter-group violence are serious threats to democracy. Both have consequences as serious as the malfunctioning of democratic institutions, the neglect of government responsibilities in law enforcement, and the use of government institutions to discredit, even disband, other groups.

Religious Freedom and Violence in Contemporary Indonesia

Very few scholars concerned with the democratization process in Indonesia have paid much attention to the connection between religious freedom and collective violence as a contemporary challenge to Indonesian democracy. UNSFIR (The United Nations for Support Facility for Indonesian Recovery) undertook rather extensive research on collective violence in Indonesia from 1990 to 2003 (Varshney, 2004). However, this research failed to make connections with religious freedom, and was held over a long time-span, from far before the fall of the New Order until well into the reformation period. As such it cannot be considered representative of the democratization or post-reformation era. Okamoto and Rozaki also edited a collection of papers on violently oriented groups that emerged in the post-reformation period, yet once again made no connection with freedom of religion and belief (Okamoto and Rozaki, 2006).

Freek Colombijn and J. Thomas Lindblad (2002) compiled several papers on violence in Indonesia since the Dutch occupation and the legacy it has left up until the reformation era. Once again, it seems there is no connection made between violence and the challenges of religious freedom. The significance of violence in Indonesia was made apparent in Henk Schulte Nordholt's article, in which he demonstrates that violence in Indonesia almost always accompanies periods of change, beginning with the Dutch

occupation to independence and post-reformation. Nordholt shows that violence will only become more important through illustrations of violence in Timor Leste, West Kalimantan, Maluku/Ambon and Poso, as well as the emergence of various groups that frequently resort to violence and have a religious basis (Nordholt, 2002: 51). Such groups include Pamswakarsa, a militia that had been used to counter the opposition movement in 1998. However, Nordholt does not specifically deal with violence related to religious freedom.

Collective violence as defined by Nordholt tends to follow the definition provided in UNSFIR's report. It refers to violence between ethnic groups, between adherents of different religions or of different sects/groups within the same religion. It does not refer to state violence as had frequently occurred during the New Order, nor does it refer to economically motivated violence – for instance, the exploitation of laborers or farmers (Varshney et al. 2004). This is not to say that these kinds of violence have no connection with the state or government, or with the government's duty to protect citizens from attack or that violence can also be one sided, in that one group may attack another, even though this group has no power to respond or to oppose the attack (Tilly, 2003: 3-5).

The understanding of violence and collective violence may be expanded; besides referring to the use of physical violence, it may also include threats and terror. It may be specific groups within society threatening or terrorizing others, or it may be the state (state terrorism) (Tilly, 2003: 233-235). This expanded definition applies here, in light of the reality that violence by specific groups against others may be in the form of physical violence, but is often accompanied by threats and coercion. The state or government may become involved due to pressure from violent groups. However, collective violence here refers purely to that which is related to freedom of religion and belief.

The seriousness of violence against religious freedom is statistically obvious. The Wahid Institute and the Setara Institute¹⁰ have provided estimates for the last two years. In 2007, the Setara

Institute's year-end report noted that throughout 2007 there were as many as 185 violations of religious freedom, including 22 instances in which houses of worship were destroyed, 11 instances involving the banning of religious activities and forms of worship, and 12 attacks (Setara Institute, 2007: 8). At the end of 2008, Setara noted an increase to a total of 367 violations, with 88 in the form of violent or criminal activities (Setara Institute, 2009: 65). The Wahid Institute's 2008 year-end report noted that throughout the year there were 232 violations against religious freedom that they grouped into the following eight categories. Deviance – 50, violence – 55, religiously nuanced regulations restricting religious freedom – 28, conflict over houses of worship – 21, freedom of thought and expression – 20, inter-religious relations – 19, *fatwa* pronouncing a belief, stance, person or group as deviant – 14, and pornography – 17. The report concluded that violation against religious freedom was the most frequently occurring (24%) among all types of violence (Wahid Institute, 2008: 70 [Table 12]).

These instances of violence tend to be one-sided attacks, with the attacker playing judge and jury, and thus they tend to abuse and weaken legal mechanisms. The role of the state and government in democratic states is to resolve issues, including relations between citizens, peacefully and fairly. Democracy requires not only structural division between executive/legislative and judicative institutions, but also respect for the resolution mechanisms of these institutions that involve and acknowledge the rights of all citizens (Mujani 2007: 4-6).

However, from an Islamic perspective the democratic system based on the concept of the nation-state is not widely accepted and agreed upon. Many groups within the Muslim community still disagree with the nation-state system and prefer an alternative community system that is conceptually homogenous, based on Islam, and ideally implements Islamic *sharia* (law) (Mujani, 2007: 13-18). In post-reformation Indonesia, these demands and those parties voicing them have become stronger despite failing to receive

sufficient support in the general elections.¹¹ Their failure to secure significant representation in general elections have forced them to find extra-parliamentary ways to voice their aspirations. It is not surprising then that we find several Islamic movements opposing the concept of the nation-state as the foundation of democracy through extra-parliamentary channels. Hamami Zada (2002) shows how several radical Islamic groups based on this concept such as FPI, KISDI (Komite Indonesia untuk Solidaritas Dunia Islam, Indonesian Committee for the Solidarity of the Islamic World), MMI, FUUI, Laskar Jihad, HTI, FUI, and even the political party PKS (Partai Keadilan Sejahtera or Prosperous Justice Party) developed in post-reformation Indonesia and opposed the concept of the Indonesian nation-state that was developed based on the 'secular' Pancasila and the 1945 Constitution (Rahmat 2008: 187-235).¹² They have proposed an 'integralistic' state under the concept of the homogenous *ummah* or community based on *sharia* (Islamic law). This perspective clashes with the existence of the constitutional and pluralistic nation-state, the Republic of Indonesia. *Jihad*, which incorporates violence in the name of enforcing *sharia*, is thus a logical consequence of such a perspective. FPI, for instance, uses such an understanding to legitimize its struggle to 'fight against sinful deeds' (as they define sinful deeds) in attempts to set aright those who stray (Rosadi, 2008: 98-100).¹³ This is one of many factors that propel them to use violence and take the law into their own hands.¹⁴

Consequently, when speaking about the development of democracy beyond procedural democracy, we need to deal with issues of religious freedom, as it is part of democracy itself. This is particularly the case in relation to the reformation amendments to the 1945 Constitution, which saw the Indonesian Constitution more firmly adopt human rights principles by guaranteeing the very important principles of equality of citizens and freedom of religion and belief.¹⁵

Main Actors of Antireligious Freedom: The Radical Islamic Movement, Department of Religious Affairs, MUI, And Bakorpakem

Here I will analyze the correlation between the rise of Islamic radical groups and radical actors with influence over government policies and the court, because the gives them access to a number of government instruments that may be used to restrict, even prevent, freedom of religion and belief. Although the radical Islamic movement is generally against pluralism and religious freedom, it acts largely within civil society, within the extra-parliamentary and non-government spheres. Yet this does not mean that for specific issues, particularly concerning religious freedom, the movement has no relationship or ideological connection with elements within the government. The strengthening of the movement in the post-reformation period was accompanied by a strengthening of a mutually reinforcing radical Islamic ideology and worldview within radical circles. This ideology and worldview can, for instance, be seen in the policies of the Department of Religious Affairs the MUI, and in the Bakorpakem (Badan Koordinasi Pengawasan Aliran Kepercayaan Masyarakat, Coordinating Body for Monitoring People's Mystical Belief in Society).

The Department of Religious Affairs is a government department that handles all religious issues. Its research and development division is tasked, among other things, to undertake research and then make recommendations for the Minister of Religious Affairs' policies, which necessarily includes religious sects/beliefs in society. As such, the division plays a rather large role in determining the attitudes of both the Minister and the Department of Religious Affairs toward religious sects. M. Atho Mudzhar, division head, believes that Ahmadiyah is indeed deviant and should be banned in Indonesia. Mudzhar is directly involved in decision making, planning, and monitoring of religious sects, as well

as in meetings and decision making within Bakorpakem. Mudzhar has played an important role in all government policies related to Ahmadiyah (Mudzhar, 2008a; 2008b).

Meanwhile, MUI is a semi-government institution, which, while being funded by government, possesses a degree of independence in the recruitment of members and organizational management. MUI sees itself as an institution that manages all Indonesian Muslims through social organization, no matter its origin or ideology. Consequently, the nature and orientation of MUI's *fatawa* depend largely on the nature of its members (Suaedy et al. 2006: Pengantar [Introduction]). MUI always claims that its *fatwa* are representative of all Indonesian Muslims. In practice, Islamic social organizations are treated equally within MUI in terms of representation. NU (Nahdlatul Ulama, literally 'Awakening of Ulama') and Muhammadiyah, for example, which each have far more than 25 million members, are given the same representation as FPI, FUI, and HTI, which may only have a few hundred thousand supporters (Suaedy et al. 2006: Pengantar [Introduction]). It is thus not surprising that MUI's *fatwa* in the post-reformation period have reflected radical Islamic views more than the perspectives of moderate Muslim organizations such as NU and Muhammadiyah, especially given radical Islam's recent strengthening and MUI's accommodation of their views.

Bakorpakem is a division of the Public Prosecutors' Office headed by the attorney general, deputy to the attorney general in the intelligence unit, or the head of the prosecution office at the provincial level. Bakorpakem comprises members from various institutions including the police, MUI, the Department for Religious Affairs, the State Court, and even the Military Command Office, at both central and provincial levels, which monitor and determine whether a particular understanding or belief should be illegal, and then pass on recommendations to the attorney general should a sect be deemed deviant.¹⁶ In practice, regional or local heads often use Bakorpakem's recommendations to ban sects within their

jurisdiction that MUI has deemed deviant even before these sects have gone to court to face accusations of religious defamation.¹⁷

These four actors – the radical Islamic movement, MUI, the Department of Religious Affairs, and Bakorpakem – are key in determining government attitudes and policies toward religious sects in society.

Policy Making and The Local and Central Governments' Attitudes

In 2005 MUI released *fatwa* concerning the undesirability of pluralism, liberalism, and secularism, and issued a *fatwa* for deviance against Ahmadiyah in one of eleven *fatwa* issued at the time.¹⁸ Ahmadiyah is an Islamic sect originally from India, which entered Indonesia in around 1925. It obtained official certification and recognition as a legal organization from the Department of Internal Affairs in 1953 (Zulkarnaen, 2005). The Ahmadiyah believes that its leader, Mirza Ghulam Ahmad, is a prophet. Other Muslim groups consider this belief deviant because in mainstream Islamic doctrine Prophet Muhammad is the final prophet.¹⁹ MUI's *fatwa* that deemed Ahmadiyah deviant was primarily based upon Ahmadiyah's adherence to this belief.²⁰ Certain groups then used MUI's *fatwa* to legitimize acts of intimidation, violence, and attacks against this so-called deviant group.²¹

The attacks and violence leveled at Ahmadiyah's headquarters in Parung, West Java, by a radical Islamic group driven by LPPI (Lembaga Penelitian dan Pengkajian Islam, Institute for Islamic Research and Studies) and GUI (Gerakan Umat Islam, Muslim Islamic Community Movement), which also included FPI and HTI elements, were a rather explicit enactment of MUI's *fatwa* (Hamdi, 2007: 215-216). The violence continued to spread to other Ahmadiyah centers all over Indonesia, including in Lombok, West Nusa Tenggara, and in Manis Lor, Kuningan, West Java (Billah 2006; KONTRAS-LBH Jakarta 2008). A report by the National Committee on Human Rights found that violence against Ahmadiyah

in Parung, West Java, injured at least 14, and forced hundreds more to be evacuated from an Ahmadiyah building complex. In Lombok, at least 127 were forced to flee their homes and become refugees following an attack. At least 15 houses were damaged (Billah 2006).

In November of 2007 MUI also issued a *fatwa* detailing ten criteria that make a sect deviant (MRORI-WI 4, October 2007).²² This *fatwa* was followed by several unfounded local MUI *fatwa* against local sects accused of deviance, which then led to intimidation and violence against these groups. In all instances of violence and abuse, police gave minimum effort at prevention; in fact, they often evacuated the victims' houses and buildings (Hamdi, 2007: 224-235). In Parung, Bogor, after Ahmadiyah was attacked and its headquarters destroyed, police evacuated Ahmadiyah members. The local Bogor government worsened the situation with the district head and Bakorpakem issuing a ban that forbade Ahmadiyah members from living in Bogor (Hamdi, 2007: 233-234). A similar pattern of events occurred to Ahmadiyah in Manis Lor, Kuningan, West Java, and in Lombok, West Nusa Tenggara. After MUI issued the *fatwa* of deviance, intimidation, violence, and physical attacks were then followed with the government banning Ahmadiyah from taking up residence in these places (Rosyidin & Mursyid, 2007: 47-77; KONTRAS-LBH Jakarta 2008: 32-66).

At the same time as MUI's *fatwa* was released and the ensuing violence broke out, several other groups emerged. Consisting of members from NGOs and Islamic social organizations (though not necessarily representative of all constituents of these social organizations), these groups were formed out of a common interest to protect those who continued to be the object of intimidation and violence by radical groups, and who received no government protection. AKKBB was one such group. It ran activities and demonstrations to pressure the government, influence public opinion and to pressure the government into dealing much more firmly with the perpetrators of violence and intimidation and into protecting victims at the rally coinciding with the commemoration

of Pancasila on 1 June 2008. As the event was to be a display of Indonesian plurality and tolerance under Pancasila, the AKKBB committee invited, through the media, participants from all social circles, including Ahmadiyah and several sects targeted by radical Islamic groups. The event was designed to be quite relaxed, featuring traditional music performances and unique religious songs, and thus participants were urged to bring their children and partners (Suaedy, 2008: 58-59). However, AKKBB's rally was seen as a call to war against the anti-pluralism and antireligious by physically attacking the rally.²³

Instead of immediately arresting the perpetrators and protecting victims, the police took three days to round up the attackers and the mastermind, and did not bother to gather any evidence from the crime scene (Suaedy, 2008: 58-59). President Susilo Bambang Yudhoyono did indeed urge that the perpetrators be arrested and tried, but stopped short of sympathizing with the victims (*Kompas Daily*, 3 June 2008). The evidence needed to prosecute the perpetrators was only collected several days later (*Tempo*, 9-15 June 2008: 28-38). Eventually, the alleged mastermind, Rizieq Sihab, leader of FPI, and the KLI field commander of the attack, Munarman, as well as a number of attackers were sentenced to 1.5 years in jail. However, the court hearings had been colored by much intimidation, violence, and assault (Wahid Institute, 2008: 95-96).

The pressure from radical Islamic movements out to crush the Ahmadiyah did not stop here. Reacting to the incarceration of Rizieq and Munarman, these groups mobilized their masses on 9 June to demonstrate in front of the Presidential Palace, demanding that the central government ban Ahmadiyah from Indonesia. While the Palace was under siege, the government released the three ministers' joint decree, which warned the Ahmadiyah to stop spreading its faith, which the government considered a deviant interpretation of Islam. Otherwise, Ahmadiyah members would be banned from Indonesia altogether (for the entire text of the decree, see Appendix).²⁴ Since

the decree's release, Ahmadiyah members have faced continual violence and harassment from groups demanding that a presidential decree go further and completely ban Ahmadiyah in Indonesia.²⁵

The discussion above shows a clear pattern, which is also observable in later cases, whereby after certain groups deem another (in this case Ahmadiyah) deviant, its members and/or property are the subject of intimidation, harassment, and eviction. In this case, violence was preceded, even provoked, by MUI's *fatwa*, and then justified and legitimized by Bakorpakem's departments, and even the heads of provincial parliaments. Similarly, with the central government, after a *fatwa*'s release, intimidation and violence by radical Muslims ensues, which then mobilizes central government elements to ban, restrict, or threaten groups accused of deviance, as the three ministers' joint decree concerning Ahmadiyah did, even though demands for a presidential decree banning Ahmadiyah have not been realized (*Kompas*, 2 June 2008).²⁶

Trends In Jurisdiction: Courts Under Pressure

In addition to the trends of government policy-making through local heads, ministers, or through the three ministers' joint decree, another trend against religious freedom is to take the leaders of so-called deviant sects to court to face charges of blasphemy. This trend also occurs through a process of intimidation, violence, and assault, often preceding or being reinforced by an MUI *fatwa* of deviance. Finally, mass pressure pushes the case to court, which invariably throws the leaders in jail for religious defamation.

This has been the case for many sects accused of deviance in various places. For example, the rehabilitation center run by YKNCA (Yayasan Kanker dan Narkoba Cahaya Alam, Natural Light Foundation for Cancer and Drug Abuse) in Probolinggo, East Java, was initially a foundation aimed at treating drug abusers and cancer patients through spiritual healing. Led by a Muslim, Ardhi Husen, the foundation nevertheless treated both Muslim and non-Muslim patients. The foundation's use of spiritual healing meant

that even non-Muslim patients were expected to practice their brand of spiritualism. To help facilitate this, the foundation provided the necessary religious facilities such as the place of worship for non-Muslim patients. Further, because treatment was intense, many Muslim and non-Muslim patients were asked to stay at the YKNCA rehabilitation center. This soon became controversial. How was it that the center was for Muslim spiritual healing but non-Muslims were also treated and lived in the same place? Moreover, they worshipped in the same complex, although in different places that the foundation provided. Locals also saw the YKNCA rehabilitation center as a *pesantren* (traditional Islamic boarding school), and thus a place specifically devoted to Islamic studies.

Problems also arose from the fact that because treatment was spiritual, all patients were required to meet with the principal teacher, Ardhi Husen. He often gave them advice or religious insight, which was often spiritual or Sufi/mystic in nature. The foundation's secretary creatively compiled these insight into a book titled *Menembus Gelap Menuju Terang* (Through Darkness to Light), and published two volumes. The book was publicized as an interpretation of the Quran according to Ardhi Husen. Reviews by several *ulama* (religious scholars) in Probolinggo found that the interpretation was deviant and misleading and thus subject to investigation.²⁷ Some of the explanations considered deviant included the statement that Prophet Muhammad's teachings came to an end with his death, and that interpreting the Quran through logical reasoning is permitted. There was virtually no negotiation between the rehabilitation center and *ulama*, and groups opposed to the center or the government. MUI's accusation of deviance against YKNCA's interpretation led straight to society's judgment of them as deviant, which then promoted Islamic groups to attack the YKNCA complex.

In the early stages police were even involved in attacking the rehabilitation center.²⁸ From here, the Probolinggo government – the district head, public prosecutor's office, MUI, Department of Religious Affairs, and the State Court – issued a decree banning all

YKNCA activities and prosecuting those thought to be involved. Ardhi Husen, being the principal teacher and interpreter of the Quran, and four others were sentenced to five years in jail, the maximum sentence for those accused of violating article 156a of the Criminal Code on “religious defamation”.

At almost the same time a bilingual prayer community underwent a similar experience. The Muslim group, led by Yusman Roy in Malang, East Java, prays in Arabic with an Indonesian translation. According to general understanding, prayers can only be performed in Arabic, but all ritual processions in Roy’s community were conducted bilingually, with the Arabic being read while an Indonesian translation was given. This method was considered deviant. Moreover, there was the belief that the community had weak religious foundations as Roy lacked sufficient religious education. He was thus seen as challenging mainstream interpretations.

Initially, challenges to Roy’s methods were limited to debate within a religious sphere that involved other religious leaders around Malang. It did not conclude that Roy’s methods were deviant. But things took a hostile turn as radical Islamic groups increasingly saw Roy as opposing the Muslim majority. FPI and HTI initiated the first demonstrations and acts of intimidation, and later invited other groups to join. Pressure then forced the Malang government to facilitate a meeting between the involved institutions, including the MUI, the Department of Religious Affairs, the Public Prosecutor’s Office, police and the state court, and then to issue the decree to ban the sect from Malang (Waluyo & Riyansyah, 2007: 113-172; Rahayu, 2005). Roy was then taken to court to face accusations of religious defamation as stated in article 156a of the Criminal Code.

However, unlike Ardhi Husen of YKNCA, who was prosecuted for violating article 156a of the Criminal Code and was given the maximum sentence, the judge’s council rejected the public prosecutor’s argument that Roy was guilty of religious defamation. But the judge’s council still found him guilty of the lesser offense of violating article 157 of the Criminal Code, of “ill-treatment and

social unrest". He was sentenced to two years in jail (Waluyo & Riyansyah, 2007: 170-171).²⁹

Lia Eden (also known as Lia Aminuddin), the founder and leader of the Lia Eden community, was also sentenced to two years in jail. The community believed her to be the bearer of Archangel Gabriel's divine revelation, and that one of her children, Muhammad Abdurrahman, was a prophet.³⁰ MUI's *fatwa* of deviance, and threats and intimidation against the community by FPI and their allies forced police to investigate and prosecute Lia Eden for religious defamation. The *fatwa* also gave reason to FPI to harass and threaten the community with violence if they refused to disband and return to Islam. Relentless pressure from FPI forced Lia Eden and her community to court, which sentenced them to two years in jail. The sentence was reduced in accordance with time already spent in detention. The Central Jakarta judge's council charged her with violating article 156a of the Criminal Code on religious defamation against Islam. The more important aspect with which MUI and Islamic groups took issue were Lia Eden's use of Islamic terms in describing herself as Gabriel, and thus a source of divine revelation from Allah, and Abdurrahman's status as prophet. In conventional Islamic belief, no divine revelation takes place after Prophet Muhammad, who is also the last prophet in Islam. Strangely though, the religious identity of Lia Eden, both on her identity card and on the court data, is not Islam or that of a Muslim but '*Perenial*' or Perennial (English): so the question arises, what religion did Lia Eden really defame?³¹

Similarly, Muhammad Abdurrahman, the prophet who received divine revelation from Lia Eden, was also charged with the same accusations. And yet, all accusations against him were dropped at the Magistrates' Court on account that "belief cannot be tried" and that it was Lia Eden, not Muhammad Abdurrahman, who was responsible for the community's beliefs.³² The public prosecutor appealed to the Supreme Court, where the decision was overturned and Muhammad Abdurrahman was sentenced to three years in jail.³³

The Tasikmalaya State Court gave Ishak Suhendra Bin Sahamad, the sixty-year-old leader of the Pencak Silat Panca Daya Institute in Salawu, Tasikmalaya, a four-year jail sentence, for violating article 156a of the Criminal Code. The sentence was exactly as had been demanded by the public prosecutor, Mustofa. The accusations against Ishak began with the book titled *Agama Dalam Realita* (Religion in Reality). Radical Islamic groups protested and made threats because they believed that the book defamed Islam. According to the Tasikmalaya judge's council, proof that the book defamed religion could be found for instance, in the suggestion that the intention to pray was equivalent to prayer itself. Other evidence had it that Ishak spoke of Prophet Muhammad as the *pure light* of his Panca Daya Institute and mentioned that Allah needed humans. In Islamic doctrine, at least according to MUI, it is not God who needs humans, but on the contrary, humans need God. Thus, Ishak's teaching was an insult to God's power. The case began in a similar fashion to those detailed above. First, accusations of deviance were articulated, then MUI issued a *fatwa* declaring Ishak's group to be deviant, followed by violent attacks against the group, and finally the local government banning the group based on recommendations from Bakorpakem.

Ishak courageously stood up against the masses that took up MUI's *fatwa* and all other hostile opposition. He was initially reluctant to go to court because he felt it was unfair, as he had been labeled deviant even before the hearings could begin. His audacity invited radical Islamic groups to force him to attend court. Throughout the hearings, the court was full of members from Islamic social organizations shouting, "*Allahu Akbar*" (God is great). The judge's council handed down quite a heavy sentence, only one year less than the maximum sanction for religious defamation as stated in article 156a of the Criminal Code (*WRORI-WI* 15, October 2008: 13-14). Besides the cases detailed above, many other smaller groups in various regions have been the subject of MUI *fatwa* of deviance, which has been invariably followed by intimidation, violence, and the eventual ban on such groups by local governments and courts.³⁴

Besides those cases involving the minority within one religion, namely Islam, there are other religious minorities, such as Protestants and Catholics. On 14 December 2007, PGI (Persekutuan Gereja-gereja Indonesia, Indonesian Communion of Churches), the umbrella group of all Protestant churches, and KWI (Konferensi Waligereja Indonesia, Indonesian Bishops' Conference), the umbrella group of all Catholic churches, and KOMNAS HAM (Komisi Nasional Hak Asasi Manusia, National Commission on Human Rights). In doing so they reported that 108 churches had been shut down during President Yudhoyono's administration, from 2004 to 2007. This repression includes the forced termination of worship, attacks on or destruction of, and forced closure of places of worship.³⁵ Various investigations and analysis of several cases involving closure and closing of churches have been published (Sihombing 2008; KONTRAS-LBH 2008, *MRORI-WTI*, 1-17).

Law No. 1 Pnps 1965 And BAKORPAKEM: Suppressors of Religious Freedom

The recent debate over religious freedom in Indonesia actually has its roots in Law No. 1 PNPS³⁶ 1965 and Bakorpakem. Article 156a was recently inserted in between Articles 156 and 157 of the Criminal Code, a legacy of the Dutch occupation. This article was the actualization of Law No. 1 PNPS 1965, article 4, which placed religious defamation in the Criminal Code. For this reason, article 156a was inserted into Chapter V of the Criminal Code (Crimes against Public Order) rather than a special chapter, for instance, on religion or religious belief, being created. Article 156³⁷ already addresses the consequences of insulting or mistreating other groups in Indonesia, and article 157³⁸ details the sanctions that apply for public displays of hostility.

However, being articles aimed at maintaining public order, they did not cover matters concerning minority groups that deviate from the majority religion or 'primary religion' as is the case in Law No. 1 PNPS 1965 and the new article 156a. Article 156a³⁹

was intended to protect primary religions⁴⁰ from defamation by interpretations that depart from the mainstream, which are of course, always interpretations of minority groups. In reading article 156a it becomes quite apparent that this article is not intended to protect public order and minority groups; on the contrary, it protects the majority or 'primary religions' from so-called deviant interpretations. Meanwhile, all government decisions, laws, decrees (and joint decrees) on restricting and banning specific faiths in all the cases mentioned above are based on Law No. 1 PNPS 1965, and not on the amended article 28 of the 1945 Constitution, which guarantee religious freedom.

The other side of the debate over article 156a is that the article was formed before the 1945 Constitution was amended, so that the new article 28 contained a detailed explanation of human rights, which included religious freedom as a non-derogable right. The point of debate is whether article 156a of the Criminal Code is an exception to article 28, point J, verse 2 of the 1945 Constitution, which otherwise potentially restricts the application of article 156a. the MUI through KH. Ma'ruf Amin,⁴¹ the Department of Religious Affairs through Atho Mudzhar, and Bakorpakem believe that religious freedom may be restricted by article 28J verse 2, and as a result, in order to protect religious freedom, article 156a must be enforced as it is, without change or adjustment in light of the detailed passages on human rights in the 1945 Constitution. Of course, MUI and radical Islamic groups support this view, and it is hardly surprising that article 156a of the Criminal Code is often invoked as radical groups intimidate and attack groups they consider deviant and misleading.

The word 'deviant', which is often followed by the phrase 'and misleading' (*'sesat dan menyesatkan'*) is not included in any laws in Indonesia, whether it be the Constitution, legal regulations, the Criminal Code, decrees, or joint decrees. MUI uses the phrase 'deviant and misleading' in relation to particular minority faiths and sects considered to be deviant based on theological arguments from

the Quran and *hadith*. The words are a translation of the Arabic '*dhoo'llun mudlillun*'. This translation from the Arabic is equated with the words in article 156a of the Criminal Code: "abuses or defames religion". It is not surprising either that radical Muslims use 'religious defamation' and 'deviant and misleading' interchangeably.

Those who support the non-derogable right of religious freedom, including AKKBB, believe that article 156a of the Criminal Code should be removed and reworked so that it accords with the entire article 28 of the amended Constitution. These groups feel that article 28J verse 2 on restrictions to human rights for several fundamental reasons cannot be applied to faiths or interpretations of a belief but can only apply to religious expression in accordance with the criteria detailed in the same verse. All the cases mentioned above involved restrictions and legal prosecutions against belief itself and not on its expression. Restrictions to human rights concerning religion and faith in Law No. 1 PNPS 1965, from which article 156a of the Criminal Code was derived, must therefore be adjusted to accord with the criteria listed in article 28J verse 2, which reads "...restrictions detailed in legal regulations are purely intended to guarantee recognition and respect of the rights of others and to meet just and fair demands according to moral consideration, religious values, security, and public order in a democratic society".

KH. Solahuddin Wahid, a prominent *pesantren* leader in Jombang, East Java, also argues that faith is a *non-derogable right*, and as such the government cannot restrict it, except in its expression. The government may regulate religious expression if it violates other peoples' rights in accordance with the logic of the constitution (Wahid, 2008). This opinion is further strengthened by Azyumardi Azra, former rector of the UIN (Universitas Islam Negeri, Islamic State University) in Jakarta and currently the postgraduate director at the same university. He argues that ratification of the ICCPR (International Covenant on Civil and Political Rights) requires the government to protect all faiths and prevent violence against minority groups. Azra implores the government to be aware of the

infiltration of transnational movements that often provoke society to attack minority groups, and interpretations considered deviant (Azra, 2008).

Abdurrahman Wahid, former Indonesian president and former national chairman of NU (the largest organization of *ulama* in Indonesia) and a highly respected *ulama*, strongly opposes government interference in faith. About an hour before the government issued the three ministers' joint decree on Ahmadiyah on 9 June 2008, he announced to the media that he would defend Ahmadiyah to the death because the group was protected by the Constitution, and if the government issued a ban or interfered with their faith it would be guilty of violating the 1945 Constitution.⁴² The National Commission on Human Rights has similarly raised concerns that the joint decree on Ahmadiyah violates the 1945 Constitutions (Indonesian National Commission on Human Rights 2008).

Pakem, or the Team for Monitoring Mystical Beliefs in Society, which had been placed in the Attorney General's Office at all levels, is a legacy from the Dutch colonial rule. At the time, it was formed to monitor opposition and protests against the occupying government. After independence, Pakem took on the role of monitoring religious sects that failed to meet the Department of Religious Affairs' minimum requirements to qualify as a religion, which includes having a holy book, a prophet, and international recognition.

After the 1955 elections, which saw Islamic parties gain few votes in areas with strong support for local faiths and beliefs (not formally recognized religions), Pakem's role took on a new dimension (Sihombing, 2008: 25-27). The New Order expanded Pakem's role to monitor sects connected with the PKI (Partai Komunis Indonesia, Indonesian Communist Party), a move that gave Pakem a stronger legal foundation as detailed in Law No. 5/1696, a fortification of Law No. 1 PNPS 1965. The formation of Pakem was also mentioned in the Law on the Attorney General

No. 15/1961, the amendment to the Law on Public Prosecution No. 5/1991 and the Law on Public Prosecution No. 16/2004. Today Pakem is used to monitor sects considered to have deviated from mainstream religions by the Attorney General's office. But in order to decide whether a sect deemed deviant should be banned or not, Pakem must involve Bakorpakem, which consists of elements from the Department of Religious Affairs, Intelligence, Police, the Minister for Internal Affairs, and the State Court. Unfortunately, usually prior to Bakorpakem holding a coordination meeting, MUI would have issued a *fatwa*, the Department of Religious Affairs' research and development division would have released their research, and a strong belief about the deviance of the sect would be well entrenched. From here, Islamic groups would usually start to make demands, and then the decision would be made that the sect is deviant and thus must be banned, monitored, warned, or taken to court to face charges of religious defamation. All the cases examined in this paper went through this process. Thus Bakorpakem is a reflection of the government's attitude toward so-called deviant sects (Sihombing, 2008: 43-60).

We can thus conclude that Law No. 1 PNPS 1965, from which article 156a of the Criminal Code was derived, and the existence of Bakorpakem are the two main elements targeting sects considered deviant or guilty of religious defamation, and then banning, restricting or threatening them, if not taking them to court for religious defamation. Radical groups often use intimidation or violence as tools when the government fails to immediately accede to their wishes or to interfere with the legal process. Rumadi, for example, concludes that for cases of religious defamation, the weight of the final sentence is directly linked to the level of mass pressure from radical groups (2007: 19-64). For those cases where mass pressure during hearings is high, heavier sentences are handed down; conversely, sentences are lighter or waived altogether if there is no mass pressure while the court is in session.

Conclusion

The discussion above suggests that the Indonesian process of democratization must not only be assessed in terms of the stability of political structures and democratic procedures such as elections, and presence of parliament and political parties, but also in terms of protection and implementation of the government's constitutional duties to its citizens, such as political security and law-enforcement responsibilities. The gathering strength of radical Islamic movements poses a formidable challenge to the government's ability to perform its duty. The tendency among such groups to turn to attacking religious freedom is a warning that greater and more serious protection and law enforcement are urgently required.

Three challenges are evident from the discussion above. First, vagueness and discord between the Constitution and subsidiary laws concerning post-reformation guarantees of religious freedom persist. Second, the government's largely ambiguous attitude concerning law enforcement and violations of religious freedom would suggest that it is vulnerable to pressure from radical groups. Third, the weak attitudes of the government, MUI, and Bakorpakem, which tend only to listen to radical groups, have the effect of strengthening the latter, almost to the extent of allowing them to shape policies. The government must immediately be made aware of the limits of the Constitution and the law must be upheld.

It seems unavoidable that the Muslim community must try to transform itself from within in order to attain true harmony between society's demands and Islam's ideals.

Endnotes

- 1 Munarman is the senior editor and legal officer of the *Suara Islam* (Muslim Voice) tabloid, an HTI publication. Munarman maintained that the attack was the work of the KLI (*Kompas Daily*, 3 June 2008).
- 2 Pancasila is the result of an agreement reached by the founding fathers of Indonesia in August 1945. It consists of five fundamental principles: (1) belief in one supreme God, (2) just and civilized humanity, (3) the unity of Indonesia, (4) consultative democracy, and (5) social justice for all Indonesians.
- 3 See also Suaedy et al. (2008: 23-28, 140-144).
- 4 See also KONTRAS-LBH (2008).
- 5 A video recording, which called on FPI, HTI, and FUI leaders to kill Ahmadiyah members was widely distributed at the time in a public event that was equipped with a sound system. The police took no action against those who issued the call (Hasbiyallah and Syarifudin 2008: vi). The transcript has also been distributed through many mailing lists and on YouTube. One video shows three leaders from Islamic social organizations giving their speeches, namely: Sobri Lubis, FPI secretary-general; Muhammad Al—Khatthath, chief editor of the HTI magazine *Al-Wa'ie*, and FUI activist; and Abu Bakar Ba'asyir, leader of the Indonesian Mujahidin (Holy Warrior) Council (MMI).
- 6 This group, led by KH. M. Athian Ali, issued a death sentence against Ulil Abshar Abdalla, coordinator of the Liberal Islam Network (JIL), because Ulil wrote in *Kompas* his recommendations for renewed Islamic thinking.
- 7 Many cases of threats and violence related to MUI's *fatwa* (both central and local branches) on deviant sects continue to occur all over Indonesia. See for instance the *Monthly Report on Religious Issues* published by the Wahid Institute (hereafter MRORI-WI), No. 1 – 17. See also (Assyaukani 2009: 1-21).
- 8 The Wahid Institute has published monthly reports on religious life, particularly on issues concerning religious violence that have increased. MRORI-WI is a limited edition but can be accessed at www.wahidinstitute.org.
- 9 The joint decree is SKB No: 3 of 2008, No: Kep-033/A/JA/6/2008, and No: 199 of 2008. Although it does not contain the words 'banned' or 'disbanded', in essence the decree practically banned Ahmadiyah from practicing its faith or risk dissolution. The group would also be

subject to government monitoring. For the whole text of the three ministers' joint decree, see Appendix.

- 10 Setara Institute is a foundation in Indonesia that acts as a human-rights watchdog. Recently it published annual reports on religious freedom in Indonesia in 2007 and 2008.
- 11 Islamist political parties, namely those parties advocating for Islamic state and the application of Islamic *syaria* in the 1999 general elections only secured 15 percent of the total vote; which rose to 16 percent in the 2004 election, then declined in the 2009 election, according to General Election Committee (KPU) data, PPP and PKS secured 5.32 percent and 7.88 percent, respectively, a total of 13 percent (Suaedy 2009).
- 12 According to M. Imdadun Rahmat, although the latest development is PKS's shift to promoting pluralism, it seems this is only on the political level. The genealogy of PKS's ideology and agendas has shown no changes from the time it was established, where its support was drawn primarily from *at-Tarbiyah* based communities (Islamic education cells).
- 13 The term 'jihad' historically and doctrinally in Islam has many interpretations. It may refer to the most serious efforts to eradicate poverty, backwardness and to increase society's wellbeing, and not necessarily refer to war and violence. For such a discussion, see Paters (1996).
- 14 There is indeed much debate here. For instance, violence could also be caused by poverty or backwardness, but it is not impossible that a certain party orders such a violent attack to achieve specific political interests. See Rosadi (2008).
- 15 This is evident in the amended Indonesian Constitution, which places freedom of religion and belief in the chapter on human rights, article 28F, verses 1 and 2, and not only in the chapter on religion or in the ratification of the ICCPR (International Covenant on Civil and Political Rights) in Law No. 12 of 2005.
- 16 The organization and management of Bakorpakem is detailed in the Attorney General's Decree No: KEP-004/JA/01/1994 on "Establishment of a Coordinating Body for Monitoring Mystical Beliefs in Society."
- 17 For background information and work practices of Bakorpakem see Sihombing (2008: 25-60).

- 18 The text of and responses to the *fatwa* are available in Suaedy et al. (2008: 263-264). This was the second *fatwa* of deviance issued against Ahmadiyah after MUI released one in 1980. Yet the first *fatwa* was not followed by the same physical attacks and government policies.
- 19 This paper will not further discuss Ahmadiyah doctrine and teaching; rather it will stress the right for citizens to hold any belief and the role of the government as the party responsible for enforcing the Constitution and human rights. For Ahmadiyah.
- 20 One investigation revealed a strong suspicion that the Saudi Arabian Embassy in Jakarta gave an order that led to MUI's *fatwa* against Ahmadiyah (both the first *fatwa* in 1980 and the second in 2008) (KONTRAS-LBH Jakarta 2008).
- 21 For the impact of MUI's *fatwa* on mass violence in Indonesia, see Assyaukanie (2009: 1-21).
- 22 The ten criteria are as follows: 1) denying one of the six pillars of faith; 2) belief in or adherence to religious theology which does not accord with the Quran or the Prophet's Sunna; 3) belief in a divine revelation after the Quran; 4) denying the authenticity and/or truth of the Quran; 5) interpreting the Quran in a manner not based on standardized interpretations; 6) denying the Prophet's *hadith* as a source of Islamic teaching; 7) insulting, abusing and/or degrading the prophet and apostle; 8) denying that Prophet Muhammad is the final prophet and apostle; 9) altering, adding, or removing the primary pillars of worship as defined by *sharia*, such as performing the hajj in a place other than Mecca, or holding the belief that there are not five obligatory prayers; and 10) pronouncing another Muslim as an apostate without theological basis, which includes pronouncing them apostate only because they associate with a different group/belief within Islam.
- 23 In several reports, Munarman, the Islamic Defenders Militia (LPI) field commander of the attack and prominent HTI leader, stated that AKKBB's invitation through media and the rally's activities were seen as a call to war (*Koran Tempo*, 2-3 June 2008; *Tempo*, 9-15 June 2008: 20-37).
- 24 The three ministers' joint decree does not clearly ban the existence of Ahmadiyah in Indonesia, but does ban them from propagating their beliefs to others, with the threat that otherwise the Ahmadiyah would be disbanded. For a relatively complete discussion see International Crisis Group (2008), *MRORI-WI* (11 June 2008).

- 25 For discussion on the influence of the three ministers' joint on Ahmadiyah, see International Crisis Group (2008).
- 26 This is in relation to the attackers demands to President Yudhoyono to disband Ahmadiyah.
- 27 One investigation indicates that initially, a politician from the Local Parliament of Probolinggo put forward the accusation that YKNCA was deviant for political reasons. But then several religious leaders and Probolinggo MUI used the accusation as the basis for eventually issuing a *fatwa* of deviance. Violence broke out, which prompted Bakorpakem to meet and ban the deviant sect, and the matter was handed over to the courts (Andri A. and al-Farizi 2007: 79-111; Rahayu 2005).
- 28 See the lengthy discussion on this in Andri A. and al-Farizi (2007: 79-111) and Rahayu (2005)
- 29 Waluyo and Levi Riyansyah. 2007. ? shows how Yusman Roy frequently debated with several local *ulama* through publications. These publications were interpreted as lacking respect and demonstrating ill treatment of others.
- 30 See Muhammad Abdurrahman's defense, "Pledoi dan Duplik" (Defense and Response), in the Central Jakarta Court, 6 September 2006.
- 31 See the sentence handed down to Lia Eden by the Central Jakarta Court, June 2006. According to the new citizenship law of 2006, all the religions apart from the five officially recognized religions (Islam, Catholicism, Protestantism, Buddhism, and Hinduism) are stated as 'perennial' on Indonesian ID cards. Lia Eden was recently rearrested because after her release she continued to practice her faith.
- 32 Sentence handed down to Muhammad Abdurrahman by the Central Jakarta Court, December 2006.
- 33 See the RKUHP (Criminal Code Bill) *Factsheet*, Edition 8 (December 2006), available at www.wahidinstitute.org.
- 34 *MRORI-WI* continues to highlight the increase in frequency of these occurrences every month throughout Indonesia.
- 35 http://www.pgi.or.id/berita.php?news_id=56 (accessed 15 February 2009). See also (Daulay 2008)
- 36 PNPS (*Peraturan Presiden*) is the government decree, which was released by the President and then legitimized by the parliament.

- 37 Article 156 of the Criminal Code (KUHP) reads in full: “Whosoever publicly expresses views that incite hatred, hostility or insults other Indonesian citizens is liable to a maximum jail sentence of five years or a maximum fine of four thousand five hundred rupiah.
- 38 Article 157 of the Criminal Code: 1) “Whosoever broadcasts, displays or sticks up signs or pictures that express views that incite hatred, hostility or insult those within their community or other Indonesian citizens, intending that the signs or pictures be made known to all, is liable to a maximum jail sentence of two years and six months or a maximum fine of Rp 4.500,-” 2) “If a repeat offender committed his second crime in his official position, and the repeat offence occurs within five years of his initial crime and sentencing, then he may be fired.
- 39 Article 156a of the Criminal Code in full reads: “Whosoever intentionally and publically expresses their views or behaves in a way that, a. in principle incites hostilities, or that abuses or defames a religion embraced in Indonesia; b. prevents or discourages others from embracing any religion that is based on a belief in one Supreme God; is liable to a maximum jail sentence of five years.”
- 40 The phrase “incites hostilities, or that abuses or defames a religion embraced on Indonesia...” in article 156a refers to the contents of article 1 of Law No.1 PNPS 1965, where religion refers to ‘primary religions’ or majority religions. Article 1 of Law No. 1 PNPS 1965 reads: “All people must not intentionally and publically talk about, recommend, or try to gain public support to reinterpret a primary religion in Indonesia or to hold religious activities that resemble that religion’s activities, where these reinterpretations or new activities deviate from those of the primary religion.” See the explanation provided in Suaedy (2007).
- 41 Stated on several occasions, especially in the transcript of the seminar held by the Legal Section of the Presidential Advisory Board, Jakarta, 13-15 February 2008, and at the Presidential Advisory Board’s Limited Seminar, office of the Presidential Advisory Board, Jakarta, 3 April 2008.
- 42 <http://www.liputan6.com/sosbud/?id=160586> (accessed 10 March 2009).

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CHAPTER X

ISLAM, IDENTITY, AND MINORITY IN SOUTHEAST ASIA

“(...) Against the presumption of an earlier generation of ‘modernization’ theories and political economics, it seems to be that culture particularist rather than cosmopolitan goals have come to the fore for a large number of Southeast Asians. There are these days no national leaders who can avoid, even if they wanted to, cultural issues, most articulating visions of a future shaped by the twin goals of economic growth *and* moral or cultural integrity, rather than either one of these in its own.” (Kahn 1998: 2)

Introduction

The position of minorities seems to be increasingly important in the current era of globalization.¹ It is essential that their position cannot merely be placed in conventional patterns and democratic systems, so it is required to overhaul from its roots for the democratic system and human rights. In various areas, the minorities rise up and demand greater rights. In contrast to the former communist countries in which they rise up due to oppression, negligence becomes the ultimate reason in democratic countries. An overwhelming emphasis on individual rights, democracy and human rights tends to ignore minority rights. This notion seems to occur in Indonesia. Post-reform political liberalization accompanied by government negligence in protecting minorities, is reflected, for instance, through the number of violent acts victimizing minorities.²

According to Kymlicka (1995: 5), the democratic system and human rights initially neglected the rights of communities and minorities. Kymlicka writes, “The problem is not that traditional human rights doctrines give a wrong answer to this question

[minority rights]. It is rather that they often give no answer at all (...).” The phenomenon is seen not only to challenge democracy and human rights in reviewing a system of community and minority rights management in today’s global transformation, as argued by Benhabeb (1996: 3), “these trends indicate that ‘the universalization of liberal democracy’ is far from complete,” yet the system is also required to redefine its mission of justice. Kymlicka (2001: 4) asserts that:

This growing movement for the international codification and monitoring of minority rights presuppose that at least some minority provisions are not simply a matter of discretionary policies or pragmatic compromises but rather are a matter of fundamental justice. It implies that minority rights are indeed basic rights.

Globalization has transformed almost every pattern of human relationship. Similar to other parts of the world, Asian and Southeast Asian Muslims are also undergoing new changes. John Voll (2008: 261), for instance, in describing Islam in Asia in the 21st century states:

Asian Islam is at a major and significant crossroads, and this is an experience shared by virtually every other community around the world. Old and long-established patterns of politics and community are rapidly disappearing and being replaced by new ways of thinking and doing things. Yet, the underlying historical and cultural foundations continue to shape events in significant ways. In this present time of turmoil and rapid change, it is clear that conscious and unconscious decisions of leaders and the general public are determining which paths are being taken in the crossroads era of history.

Subsequently, the case of minorities, both in Islam and liberal democracy and human rights, is facing transformation that can no longer be seen through uniformity and old standardization. As in

other parts of the world, Southeast Asia, in which Muslims are the majority and minority, indicates a strong urge for change. In Indonesia and Malaysia, in which Muslims are the majority, non-Muslim minorities and minorities within Islam – often categorized as ‘heretical sects’ in Indonesia – continue to insist on guaranteeing freedom of expression, in terms of religious matters, and social and economic rights in general. In Malaysia, the ruling coalition party of more than 50 years since independence in 1957, failed to maintain its dominance in the March 2008 election by losing its two-thirds majority for the first time and losing power in five states. In Indonesia, the widespread demand for religious minority rights can only be met by rescinding the Constitutional Court’s enactment of law No. 1/1965 on April 19, 2010. Meanwhile, the demands of the Muslim minorities in Thailand and the Philippines have not come to a resolution for more than a century and claimed infinite casualties.

This study is a preliminary report of comparative research on both phenomena in three countries: Thailand, the Philippines, and Malaysia (July 2009 - March 2010), as well as the author’s personal experience in Indonesia. It aims to answer the question: how do Muslims, both as the minority and majority, identify themselves and overcome the minority issues brought about by recent changes?

Muslims as Majority

In the context of Muslims as a majority, Islam has a conventional doctrine of *kafir barbi* and *kafir dhimmi*. This doctrine refers to the concept of *dar al-Islam* (land under the rule of Muslims) and *dar al-barb* (land under the rule of non-Muslim). This doctrine has not undergone much change in the past 15 centuries, although some prominent Muslim scholars including Yusuf Qordhowi (1992: 6-57) emphasize tolerance towards religious minorities.

*Dhimmi*s are protected non-Muslim minorities (al-himaayah) within an Islamic state who are treated differently from Muslims in that state. Their rights to embrace and practice worship are guaranteed, and are protected from external attacks. In return, they

are obliged to pay tribute (*jizyah*) by obeying the rules in the Islamic state, yet they are exempted from the obligation to defend the state for ideological reasons and do not have equal rights to occupy certain strategic positions. According to Qordhawi (1992: 6), the status of *dhimmis* is distinguished from the *ablul kitab*; that is Jewish and Christian worshippers who must be treated with kindness and courtesy which he calls *the manzilah kebaashshab fi al-mu'amalah wa at-tasyri'*.³

Meanwhile, those called *musyrik* or *pagan* in the Quran are the targets of *da'wah* (preaching) and must be forced to enter Islam.⁴ However, against this last group, Qordhawi encourages tolerance (*tasamuh*) while quoting a verse of the Quran highlighting that it is not your duty (the Muslims) to give guidance (*hudan*) to them to have faith or convert to Islam, yet it is the will (*yasyaa'*) of Allah.⁵

The distinctive concept of Muslim vis à vis *kafir dhimmi* and *barbi* in relation to the concepts of *dar al-Islam*, *dar al-Harb* and *dar al-Sulh* (the land under the agreement of peace) basically refers to the Muslim supremacy concept in *dar al-Islam* over others, both constitutionally and in socio-political and economical practices. In the modern history of Muslim community, after the collapse of the Ottoman Empire the minorities in *dar al-Islam* indicate increasingly varied phenomena not only for the non-Muslims but also minorities among Muslims themselves. Meanwhile, modern nationalism does not conceptually recognize the differences of citizens, ethnicity, religion, gender, skin color, and others which by Anderson (2002) are called imagined communities. Nonetheless, ethnicity, religion, and other primordial sentiments which tend to become political forces stand against the concept of nationalism (Benhabib 1996).

In the pre-modern era, the Ottoman Empire, as a multinational state, did not impose a universalization on Islamic values and laws to all its citizens rather it enacted multinationalism in reference to the concept of *dhimmi* and what is called *millet*, a concept characterized by legal pluralism. That is, each religion is given the freedom to enact religious law over its people.⁶ Nevertheless, under the *millet*,

the Ottoman have also been noted to provide wide opportunities in the social, political and economic fields to non-Muslim minorities, including Jews, Christians, Armenians, and Greek Orthodox Christians, to take part in various professions and public roles such as finance, diplomacy, industry and general administration (Martin 2005: 7).

With the emergence of the nation-state concept in modern Europe, the *millet* concept has almost vanished. Europe, through the concept of modern nationalism and nation-state, conducts a universalization of values, including in Islamic countries. On one hand, Muslims are divided into plural states of various forms following the currents of the European universalization, yet at the same time, the concept of Islamic politics does not develop in parallel. The concept of Islamic politics has persisted, at least until recently, since its development before the European Enlightenment era. One of the consequences is the lack of the development of a political concept concerning minorities and even Muslim minorities. Thus, the concept of *dhimmi* and *harbi*, although it is still used linguistically, especially in Islamic studies, is virtually absent in the real world. According to Richard Martin (Ibid.), there are four main factors contributing to the concept of a minority state in Islam:

(...) the determinants of an Islamic vocabulary and concept of minorities were: (1) the contentious power politics of early Islamic expansion; (2) the religious identities that this highlighted and created; (3) such ethnic issues as the significance of Arab Identity in claiming privileges in the Islamic social order; and (4) the message of scripture and the direction given to the Muslim community by the Prophet Muhammad.

Consequently, in reality, these concepts and doctrines are constantly evolving in their continuous implementation in accordance with local social and political conditions, as well as the demands of the contemporary community.

Minorities in Malaysia

Malaysia is an originally multiracial and multicultural country, and some scholars label it as an immigrant country (Daniels, 2005). It was built on the basis of considerable citizenship of immigrants, especially from China and India, although some also came from Indonesia and the Philippines. On the other hand, Malaysia constitutionally declares that Islam is the official religion of the country in which *Yang di-Pertuan Agong* (the King) (Article 53 Federal Constitution) as the Head of State is no more than a symbol of Islam in the country. Furthermore, the Constitution states that all citizens are equal before the state and law, and the freedom of religious worship is guaranteed by the Constitution. However, in relation to the affirmative action program or NEP (New Economic Policy), the definition of 'Malay' and 'Bumiputera' enters the Constitution as the precedent state duty to provide guardianship by *Yang di-Pertuan Agong*. To be more precise, "it shall be the responsibility of the *Yang-Pertuan Agong* to safely guard the special position of the Malays and natives of any state of Sabah and Sarawak and the legitimate interests of other communities..." (Article 153 [1]).

When Malaya's independence was declared in 1957, the composition of the population was almost equally divided between 'Malays', 'Chinese' and 'Indians'. This was prior to the joining of Sabah and Sarawak, predominantly occupied by the Malays, in 1963 and prior to the 1965 release of Singapore, predominantly occupied by Chinese.

Prior to independence, there was unfair treatment of Malays or indigenous people by the colonial British and Japanese governments enabling the Chinese or immigrants to be more advanced than the indigenous. This creates a chronic gap of economic mastery. Until 1970, 13 years after declaring independence, economic control by the indigenous was only 1.7 percent on a national scale compared to that of the immigrants, Chinese in particular. This condition led to greater acceptance of a broader affirmative action policy for the indigenous following large interracial unrest in the General Election on 13 May 1969.

From the 1950s until several years after independence, the composition of Chinese in Malaysia (then Malaya) reached 45 percent of the total population. After joining Sarawak and Sabah, the composition decreased to 26 percent and Malays reached 53 percent. The change in composition then influenced Malaysian policies and the political system. Prior to the joining of Sabah and Sarawak and the separation of Singapore, the official term for native or indigenous people in the Constitution (The Federal Constitution 153 [1]) and in government programs was 'Malay'. There are four main preconditions to be called Malay: to be Muslim, to be fluent in Malay, to practice Malay customs, and to be born in or descended from someone born in the territory known as 'Malaya' before the separation of Singapore. The policy of *Ketuanan Melayu* occurred and became a part of independence aspirations and was extended in 1971 in reaction to the 1969 riot. However, after joining Sabah and Sarawak, considering the large number of non-Muslims who were non-immigrants or natives in both areas, the term 'Malay' was considered inadequate to classify people as 'natives'. Since then, 'Malay', which originally only included Muslims as indigenous people, was expanded to include ethnic Malays, non-Muslims and the pagan community in Sabah and Sarawak. The title was changed from 'Malay' to 'Bumiputera', in a constitutional amendment of 1971, Article 153 (Paragraph A30).

The NEP policy, often referred to as Malay Superiority, actually refers to the word 'Bumiputera'. Thus, state and government alignment towards the predominant indigenous citizenry covers not only Muslims or Malays, yet also non-Muslims and pagans. To this end, it is interesting to re-examine the Islamic doctrine of the division of *kafir dhimmi* and *harbi*; The category of Malay and Bumiputera Superiority, in fact, does not only cover Muslims. This matter is because the community development and political demands also include pagans or animists who, according to the verse of the Quran, are classified as *musyrik* (*polytheists*) who must be subdued. Similarly, the question continues to the non-Muslims in

the separation case of Singaporeans from the Federation of Malaya (now Malaysia) was, thus, the original non-Muslim *dhimmi* in the Malaysian state and should be, theoretically, *harbi* in the *sharia* sense as lawfully enforced after Singapore split? Apparently not. Both countries, in spite of competition and sometimes high tension, have never attacked each other and remain mutually respectful. They are bound by their state constitutions and international law.

Again, this suggests that the local political and economic realities, and the international system are more influential on modern Muslim socio-political structures that should encourage reform or transformation to the conventional *sharia* doctrine of the static categories of *dhimmi* and *harbi*. That way, certain Islamic doctrines can contribute to solve more concrete problems in contemporary community.

Demands for Changing

In the 2008 election, the ruling party BN (Barisan Nasional, National Front), which had ruled for more than 50 years since independence, was significantly challenged by the opposition. For the first time, it failed to win a two-thirds majority of the seats in the central parliament and lost votes in five states. BN consists of at least four major parties reflecting ethnic differences: UMNO (United Malays National Organization) representing Malays or Bumiputera; MCA and the Movement Party (ruling in Penang Island before the 2008 election), a multiracial party yet predominantly supported by Chinese; MIC representing Indians; and small local parties in Sabah and Sarawak. Meanwhile, the opposition party, as a new BA (Barisan Alternatif, Alternative Front) coalition known as PR (Pakatan Rakyat, People's Alliance), consists of three parties: the PKR (Partai Keadilan Rakyat, People's Justice Party), which is multiracial yet has mostly Malay supporters and leadership; the historically socialist-democratic DAP (Democratic Action Party) which is multiracial yet the majority of its supporters and leadership is dominated by Chinese; and PAS (Pan-Malaysian Islamic Party) based on an Islamic

ideology that is almost fully supported and led by Malay Muslims. BA obtained high votes in the 2008 election from only 9% in 2004 to 36.9% (DAP 12.6%, PAS 10.4% and PKR 14.0%). It can be inferred that this is a demand for renewal of UMNO / BN multiracial and minority patterns.

While in the 2004 elections, BN received the highest vote in the history of elections in Malaysia (91%) and maintained domination in the state except for Kelantan, which had been led by PAS since 1990. In the same election, PKR only got one seat in the central parliament, won by Wan Azizah, the wife of the current coalition of BA or PR leaders, Anwar Ibrahim. In the 2008 election, BN only received 63.1% of seats in the central parliament, while PKR without DAP and PAS increased from one to 31 seats with overall PR going from 9% to 36.9%. BN also lost four states (plus Kelantan, which it did not already rule). In addition, PKR also took all five seats in the central house of parliament for the state capital region (federal territory), although it was unable to take over the role of head of the region/mayor because the Prime Minister's authority reserved this for UMNO/BN.

Interestingly, the phenomenal acquisition of PR is apparently because they offered a new concept of interethnic relationships as an alternative to minority management in political systems and policies by BN, with the so-called NEP (New Economic Policy) since 1970. The policy was then developed by Mahathir Mohamad in 1990 and became the NDP (New Development Policy) and then NVP (New Vision Policy, 2000) or often called Vision 2020. BA or PR through its leader, Anwar Ibrahim, proposed what he called the 'New Economic Agenda of Malaysia'. In essence, according to Anwar, NEP or NDP, NVP is *Ketuanan Melayu* (Bumiputera Supremacy) which is no longer sufficient for Malaysia to compete in the era of democracy and globalization, both internal to the Malaysians and externally, that is to compete with other countries. Within Malaysia the internal gaps among ethnic groups, especially Malays / Bumiputera, are widening. Although many Malays enjoy great benefits from the

NEP and NDP, supported by the latest official government data, the economic control is about 19 percent raised from 1.7 percent in 1970. The problem is the cronyism among Malays and also among Chinese and Indian elites who are incorporated in the Coalition of BN. Such political systems and policies, according to Anwar, have led to Malay, Indian and Chinese elites belonging to the BN coalition ruling unjustly and manipulatively. Anwar also pointed out that the economic gap between rich and poor among Malays is much worse than that between rich and poor Chinese and Indians.

For Anwar, Malay or Bumiputera's deprivation is no longer seen from the point of view of ethnicity or the 'Malay approach', yet it must be viewed objectively from the perspective of poor-rich and strong-weak relationships. Affirmative action should be given to anyone who needs it and not just Bumiputera. In addition, Bumiputera, Chinese, and Indian share the same issues of poverty and inequality. Therefore, this should be seen as a universal problem. He then proposed a slogan of 'Ketuanan Rakyat' (People's Supremacy) and not 'Ketuanan Melayu/Bumiputera' (Malay/Bumiputera Supremacy).

Muslims as Minority

The position of the Muslim minority in predominantly non-Muslim communities or secular countries has no better fate in Islamic intellectual discourse. According to Abou al-Fadl (2006), to the end of the Ottoman empire, the discourse of *fiqh* is limited to the allowance of Muslims to live in a predominantly non-Muslim community, for they may encounter difficulties in worship practice and experience discrimination. In addition, Fadl argues that Imam Hanafi was noted to forbid a Muslim living in a predominant non-Muslim country or community; whereas *da'wah* (mission) of Islam, since the beginning, has derived from the minority before becoming dominant in a community or country.⁷

The Muslim minority has two forms: the immigrant minority and the native minority. The immigrant minority generally live in

developed countries or big cities. In countries like America and Europe, nowadays, there comes the idea of *fiqh aqalliyat*, that is *fiqh* about the Muslim minority, yet this *fiqh* seems to be merely discussing how a Muslim minority in the developed countries addresses matters such as praying, Jumatan (Friday prayers), burial and other ritual matters. The minority rights in the social economy have been left out of the discussion of the *fiqh* (Fishmn 2006). Along with that, they have their own challenges and agendas for dealing with post-modern community or what Oliver Roy (2004) called Globalized Islam. On the other hand, this report focuses only on the second type in the case of Southern Thailand and the Southern Philippines.

In reference to this matter, Thomas Butko (2004) has an interesting point on the status of the Islamic fundamentalist movement vis à vis secular western politics. By examining the thoughts and movements of four fundamentalist Islamic figures (Imam Khomaeni, Abul A'la al-Maududi, Sayyid Qutb, and Hassan al-Banna) through Gramsci's concept of counter-hegemony, Butko concluded that fundamentalist Islam has thoroughly become a counter-hegemony of secular western political views. On the other hand, he continued, the perspective has actually been anticipated and covered in the western intellectual radar through Gramsci's counter-hegemony concept. Many Islamic observers are mistaken in equating the Muslim minority movement to gain independence or special autonomy and raise their rights as citizens to the same level as proposed by Butko's argument. Their movement, according to Butko, is a part of the fundamentalist Islamic movement vis à vis or as if it does not intersect with secular Western political views.

Local Islam and Islamic Fundamentalism

In the case of the independence movement or the demands of special autonomy in both Southern Thailand and the Southern Philippines, it is undeniable that they intersect with Islamic fundamentalist ways of thinking and movements, along with the four figures mentioned above. Nonetheless, they have different

characteristics and backgrounds. Moreover, it is evident that a number of ways of thinking within the Islamic fundamentalist movement tends to be regarded as an obstacle to their expected goals. They are more strongly linked to localization: history, land, local power, culture, ancestry and religion. The Islamist ideology, despite its contribution, is limited to the spirit of resurrection and resistance towards the established and oppressive power accused of being anti-Islam. Referring to the collective memory approach (Zerubavel 1998), I identify that there are four layers of identities (multiple identities) in their movements:

Firstly, the existence of the historical legacy of the Islamic Kingdom, both in Patani and in Mindanao, famously known as a kind of superpower of Patani Raya (Great Patani) or the kingdom that controls the Malay Peninsula (Malaya Peninsula). Meanwhile, in Mindanao, there was a kingdom that was never subjugated by western invaders, both from Spain and the United States, except by way of manipulation and robbery. In their common memory, the kingdom results in a sense of belonging, between the collective culture, the glory of the local empire, the glory of Islam, and the unity of the archipelago in which they belonged. This is combined with the existence of an independent religious court, and the position and influence of the clergy or priests.

Secondly, 'Nusantara', more specifically 'Islam Nusantara', is a similarity in the Islam of Muslim-Malays in Thailand and Southern Philippines, and of Muslims in Malaysia and Indonesia in which they feel very close in terms of religious and cultural practices, and ways of thinking. This notion also became a common fantasy in both Islamic minority communities. A local activist and writer argued in this context that both communities feel like they have been left behind for 100 years in terms of *tamaddun* (civilization) in Malaysia and Indonesia, and Singapore due to colonialism by Thailand and the Philippines against them.

The third point is Islam as the religion. The Islamic religion they embraced enables them to sense a belonging to worldwide Islam,

especially in the Middle East. Fourthly, Thailand and the Philippines become the political reality in all its forms. Thus, while Thailand is majority Buddhist and the Philippines is majority Catholic, both countries are constitutional democracies, so statements such as “I am a Thai or Filipino citizen, but why am I discriminated against,” are often heard from informants. These are the layers of identity enabling them to be ideologically solid until today and capable of uniting them in the struggle.

National State Response

In general, both the state and the government of Thailand and the Philippines have some responses to the above issues. First, there is the response based on nation-state nationalism, that is the view of the unity of the nation as a representation of the desire of the nation. That desire is represented by a majority vote. If there are different groups of people let alone minorities with national interests, they will be assimilated, if necessary by force. While in fact, the majority cannot represent a minority vote directly. That is why even though the interests of a Muslim (minority) community are distinctive, the national decisions must be established by a majority vote. As a result, the majority interests always win resulting in the exclusion of minority-specific interests. This policy is supported by a significantly strong apparatus of hegemony and standardization such as education, law, economics and language. Minorities who are not willing to assimilate totally, will be eliminated by themselves.

Secondly, because the demographic factors of both countries are in many ways dominated and influenced by the majority, especially the religions of the majority. With Buddhism in Thailand and Catholicism in the Philippines, although they are supported by secular principles, religious influence and religious leaders are very strong. In the case of Thailand, Buddhism is even declared as an official state religion, although freedom of religion and belief is legally guaranteed. The majority religious viewpoint influences the policies and leaders of the country in carrying out the government's policies.

Thirdly, in the respective systems, if the interests and aspirations of a minority are to enter the national political system, they must be part of the system, and enter a political party. However, if they take part in the system then they either have to represent the aspirations of a unique but fading community or identify with national interests, which are dominated or defined by the majority.

Fourthly, no different from other systems, politics in democracy provides tremendous opportunities for manipulation and betrayal. In the history of peacemaking and negotiation, manipulation and treachery become a frequent part, even by using elements within the minority group itself. Conflict between members of the minority itself serve to strengthen the majority position.

Demands and Negotiations

The conventional views and nationalism of the two countries do not seem to provide an opportunity for a more equitable and just relationship, unless there is a fundamental change of nation-state nationalism. The democratic and human right procedures based on nationalism have not given minorities the right to special privileges based on their history, culture and religion.

There are at least five demands which they propose. The first is freedom of religion and worship. This demand is constitutionally guaranteed, but in practice, it is difficult to avoid irregularities because the majority is prioritized. The opportunity for Muslims to have their own distinctive laws is also in some ways accommodated but in practice many obstacles are encountered. Third, is the assurance of cultural expressions concerning local cultural heritage such as the degrading of language and culture and the seizure of cultural heritage in the case of Southern Thailand. This is more complicated, especially when the cultural expression becomes part of the demands of autonomy and even independence. Fourth, is to benefit from land and natural resources, for example in the case of the Southern Philippines, through the acknowledgement of ancestral domain. Fifth, is the right to govern (self-government)

to regulate its own domestic affairs and manage the land, natural resources and political power.

The last three practical demands confront the concept of nationalism, especially conventional national identity, which is still embraced by people in both countries. The case of Aceh in Indonesia clearly shows that such conflicts can only be resolved through non-conventional procedures and concepts, although they are still considered unusual.

Discussing the Findings

Kahn's quote at the beginning of this article leads us to search for a new perspective on solving various problems in Southeast Asia, especially conflicts and minority issues if the aim is to seek justice rather than impose a certain ideology. Kahn points out that the conventional patterns used by the theories of modernization and economic politics have proved insufficient to solve the problem. I have no original idea to discuss the findings. Therefore, I will adopt the views of a number of scholars who have discussed this issue. The first is to look at the reality in Thailand, the Philippines, and Malaysia and in Indonesia. Perhaps the exact identification of Ilan Peleg (2003) by mentioning the phenomenon as a hegemonic state, a country dominated by a majority that does not specifically place minorities so that "those are only exclusively committed to the dominant ethnic groups." Peleg (2003: 23) identifies five characteristics or effects of hegemonic states:

The core nation that is in control of the state enjoys multinational superiority in all-important socioeconomic areas (e.g., level of education, technological know-how, economic control); 2) "The establishment of a hegemonic regime came about following deep, bitter, and violent conflict between the ethnic groups in the state"; 3) "The state lacks a political culture and legal tradition that could be effectively used by proponents of change to bring about a transformation from within"; 4) "The ethnic majority that dominates the state is fundamentally

intolerant toward “others,” especially toward the rival ethnic minority”; 5) “There is no significant international pressure on the ethnic majority to treat the minority in accordance with acceptable international norms.

Secondly, it is the result of a persistent state nationalism in the three countries.⁸ According to Gans (2003), there are two types of nationalism: state nationalism and cultural nationalism. State nationalism recognizes only the uniformity of national identity for those within the territorial borders of the state by means of assimilation by force if necessary. This model of nationalism probably tolerates cultural differences within the national scope. However, he does not recognize these groups as plural and multicultural national identities. On the other hand, cultural nationalism recognizes the existence of cultural differences within the territorial coverage to be a part of national identity. Minority groups with history and specificity may have their own expressions and recognize that distinction as a part of a national identity. The best example in this case is the presence of Quebec within Canada’s national state.

Thirdly, Scwarzmantel (2003) argues that hegemony occurs because the nation concept is based on the doctrine of territorial unity and citizenship. Referring to that union, only those who become nation based on the uniform territorial doctrine can become citizens recognized by the state. The consequence is that immigrants and those who are unwilling to accept the nation concept, even within the same territorial coverage, and forcibly assimilates cultural identities that are different from national identities. Scwarzmantel (2003: 87) writes:

Those taking such a stance point to the end to divorce citizenship from nationality because of the necessary exclusivity of the nation-state and its ability to maintain itself as an open democratic community. Such a stance leads to the conclusion that national identity is not a necessary basis for a democratic community.

Fourth, aspects of Islamic doctrines that are closed and irrelevant to reality need to be dismantled, so that the doctrine can be in line with reality and contribute something meaningful to the dynamics of today's modern community. Referring to the reality in Malaysia, and perhaps in many other countries, *dhimmis* are perceived to be more accurate as non-indigenous over indigenous, in which they can negotiate their rights; including the constitutional right to take part in politics and state defense.

Fifth, in the context of the rights of minority groups, Kymlicka (1995) argues that both native and immigrant minorities should be given equal rights with the majority in the concept of national identity. Both have equal rights in the constitution and socio-economic-politics. Nonetheless, the difference is that immigrants have no right to demand self-government, in contrast to the native minority. However, there are two things to note: , there are two things to note: where minorities are given rights as a group, this should not hinder the individual rights of group members; and minority groups should not tyrannize the majority or other minorities.

Endnotes

- 1 See Will Kymlicka. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford: Oxford University Press. 1995; also according to Bikhu Parekh, *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. London: Macmillan Press. 2000
- 2 Ahmad Suaedy, "Religious Freedom and Violence in Indonesia," in Ota Atsushi, Okamoto Masaaki, Ahmad Suaedy (eds.), *Islam in Contention, Rethinking Islam and State in Indonesia*. Jakarta: The Wahid Institute-CSEAS Kyoto University, Kyoto-CAPAS Academia SINICA Taiwan. 2010.
- 3 QS.: al- Mumtahanah [8-9], al-Ankabut [49], and ar-Ruum [21]

- 4 Richard Martin, "From Dhimmis to Minorities: Shifting Constructions on the non-Muslim Other from Early to Modern Islam" in Maya Shatzmiller (ed.), *Nationalism and Minority Identities in Islamic Society*. Quebec Ciewty: McGill-Queen University Press. 2005: 4
- 5 QS.: Al-Baqarah (272)
- 6 According to Recep Sentruck, "Minority Rights in Islam: From Dhimmi to Citizen," in Hunter, Shireem T. and Malik, Huma (eds), *Islam and Human Rights: Advancing A U.S. – Muslim Dialogue*. Washington: CSIS. 1995: 68-99
- 7 See Muhammad Yasin Mazhar Shiddiqi, *The Prophet Muhammad SAW: A Role Model for Muslim Minorities*. Leicestershire: The Islamic Foundation. 2006
- 8 Chaim Gans. *The Limits of Nationalism*. Cambridge: Cambridge University Press.2003: 7-66

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Author



Ahmad Suaedy was born in Kebumen, Central Java 1963, is currently an Ombudsmen of the Ombudsman of Republic of Indonesia 2016-2021. He was a founder and former Executive Director (2003-2012) of the Wahid Institute; founder and former Executive Director (2013-2016) of the Abdurrahman Wahid Centre at the University of Indonesia (AWC-UI); Founder and Director (2014 – Now) Institute of Southeast Asian Islam (ISAIs) Islamic State University (UIN) Sunan Kalijaga Yogyakarta; Research Fellow (2015) at Department of Political and Social Change, Bell School of Asia-Pacific Affairs Australian Nasional University (ANU), Canberra, Australia; Research Fellow (2014) at Alfred Deakin Research Institute (ADRI), Deakin University, Geelong, Australia; Research Fellow (2010-2011) at the Centre for Southeast Asian Studies (CSEAS), Kyoto University, Kyoto, Japan; and Research Fellow (2006) at Global Citizenship and Human Rights (GCHR), Deakin University, Burwood, Australia. He has undertaken research in Southeast Asian countries, including Malaysia, Singapore, Thailand, the Philippines, Myanmar, Timor Leste and Indonesia, and also in other regions. He received his Undergraduate and Doctoral qualifications from the State Islamic University (UIN) Sunan Kalijaga, Yogyakarta and his Masters qualification from the Islamic State University (UIN) Syarif Hidayatullah, Jakarta. He is a member of Asian Public Intellectual (API).



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